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U.S. POLICY IN THE PERSIAN GULF

HEARINGS

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

MAY 29, JUNE 16, OCTOBER 23 AND 28, 1987

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U.S. POLICY IN THE PERSIAN GULF

FRIDAY, MAY 29, 1987

U.S. Senate,
Committee on Foreign Relations,
Washington, DC.

The committee met at 10 a.m., in room SD-419, Dirksen Senate Office Building, Hon. Claiborne Pell (chairman of the committee) presiding.

Present: Senators Pell, Sarbanes, Kerry, Adams, Moynihan, Lugar, Kassebaum, Boschwitz, Pressler, and McConnell.

The Chairman. The Committee on Foreign Relations will come to order.

This morning, our committee will hold an open hearing on the current situation in the Persian Gulf, the implications of the administration's plan to put American flags on and escort Kuwaiti-owned tankers, and the refusal of the administration to abide by the requirements of the War Powers Resolution.

The tragic attack May 17 on the U.S.S. *Stark* has focused public attention on the perils facing our ships and crews in the Persian Gulf. No one should have any doubt now that we are operating in a war zone, where imminent involvement in hostilities is a clear possibility.

These risks will be all the more heightened if, as the administration proposes, we take on additional responsibilities in the Gulf, such as the registering of Kuwaiti oil tankers under the American flag.

By wrapping the American flag around Kuwaiti tankers while knowing of the enmity of Iran for Kuwait, the ally of Iraq, I believe we are headed for trouble.

Less than 7 percent of the oil from the Persian Gulf goes to the United States, and I believe we should make stronger efforts to utilize the flags, the war vessels, of some of the nations more dependent on the Gulf for oil than we are.

Our committee will learn today more of the specifics surrounding the *Stark* incident. I hope the witnesses will be able to inform us of the results of preliminary discussions with the Iraqis and tell us how the reparations issue will be handled.

The committee shares the keen interest of many Americans in being as certain as possible that there will not be a successful attack, whether intentional or accidental, on another of our warships in the Persian Gulf.

To be sure of that, we must have a good idea of what went wrong with the *Stark's* defenses, what steps have been taken to insure that our ships can cope effectively with any attack, any similar attack.

Last Thursday, the Senate approved by a vote of 91 to 5 an amendment to the Supplemental Appropriations Bill requiring a report on security arrangements in the Persian Gulf prior to implementation of any agreement for United States military protection of Kuwaiti shipping.

I hope the administration will take that as a clear signal that decisions on our Persian Gulf activities should be made in close consultation with the Congress.

Frankly, it seems that the administration is drifting toward a deeper, more perilous involvement in the Gulf, without a thorough assessment of the implications of that course, and without a realistic and informed plan.

We must know what forces are required, what risks will be entailed, what cooperation of regional states is needed and whether it can be obtained, and what support and cooperation of nations outside the region can be expected, so that Uncle Sam does not once again carry the total burden by itself.

If we are not careful, we could be setting the stage for sort of a naval "Charge of the Light Brigade." The United States should not be drawn into a shooting war in the Persian Gulf if it can be avoided. It may not be able to be avoided. But if it can be, it should be. Nor do we want to become a party to the Iran-Iraq War, a bloody conflict that has, reportedly, cost more than half a million lives already.

It is imperative that we proceed carefully.

This is why the War Powers Resolution is so important. That legislation is intended to reduce the chances of an over-zealous President involving the United States in an unwanted war, and to insure that the collective judgment of the Congress and the President is used in exercising war-making powers.

The CHAIRMAN. Senator Moynihan, do you have an opening statement?

Senator MOYNIHAN. Mr. Chairman, if I could, I would simply associate myself with your concern that this policy be open and that there be a threat assessment and that there be a consultation with the Congress.

I would like to welcome Ambassador Murphy, Secretary Armitage, and Admiral Mustin. We know them as men of great quality and openness.

Mr. Chairman, the United States has been in the Gulf since 1949. It is a region that is essential to the West and to Japan and the democratic nations of the world. It is not essential to the Soviet Union save that they may have an opportunity to deny it to us. The Soviets export oil and the Gulf exports oil.

We cannot let the Persian Gulf become a Russian lake.

The Kuwaitis have done us no great service by inviting the Russians in. We have been there, protecting them in one way or another for a generation, and, suddenly, last November, I believe, as the testimony will bear out, they invited the Russians in and the Russians saw that open door.

This is Scoop Jackson's 75th birthday, and I remember his description of the Soviets as "acting like hotel thieves." They just go down a hallway and test every door until they find one that is open. They found one that was open, and I think we have to assess that situation.

I await this testimony, and thank you for your kindness.

The CHAIRMAN. Thank you very much, indeed.

Senator Adams.

Senator ADAMS. Mr. Chairman, in another hearing room in this Capital, there are hearings taking place on the Contra aid, and I appreciate very much the Chairman making available this morning for consultation, which I feel is long overdue.

I want to point out that I believe the hearings in the two rooms are connected more inextricably than appears on the surface. In the Iran-Contra affair, the Congress was never informed about our policy. You know that, Mr. Chairman, and I do, and certainly the former Vice Chairman of the Intelligence Committee knows that.

What I guess concerns me as much as anything is that in the Iran-Contra affair, our allies, who are certainly well enough into the stage of having sufficient money that they could have helped, in fact did not offer to help at all, from what we have heard. And we have gone to countries that did not observe human rights.

I am concerned, very much concerned, Mr. Chairman, that the same thing is happening here. I do not see our allies, who have grave economic interests in the Gulf, rushing forward to protect their interests.

Japan receives 90 percent of their oil from this area, and Europe 50 percent.

I am not critical, Mr. Chairman, of other sovereign governments doing what they see in their best interests, but I am concerned—and I hope we will hear about it this morning—about why it is that we are subtly—and, as somebody who has been in government for a long time, and who, as you, have lived through the Vietnam War, I know that the rising of tensions and the commitment of U.S. resources happens in slow stages.

That is why the Declaration of War system is not used anymore. But the Declaration of War system contains within it all of the other parts.

I don't want to take too long, because we are going to hear a lot of testimony. There are many people that need to speak. But as someone who feels strongly about this and has been involved in it for over 30 years, even if you go back to the 1940s, our showing strength in a particular area has not been effective, where we are looking directly at a very, very serious war. In this situation, both sides are not necessarily rational and both sides are dealing with both sophisticated equipment and people. There is considerable question about the command and control of such a situation. Yet, we are placing both our personnel and our ships up into that Gulf, and our allies are not doing that.

Now, I don't think we need to have concurrence from our allies. It is a different thing that I am saying to you, Mr. Chairman.

What I am saying is I am concerned that we do not have this kind of unified front. We didn't have it in the Contra affair, and we don't have it here.

We did not have it in Libya.

I want to be certain that some of us in the Congress of the United States, the House and Senate, make the point that our concern is not one out of partisanship, it is one out of deep concern for our nation's policy and where we are going. We look at this as a confrontational matter that has not been solved.

The **Chairman**. If the Senator will forgive me, I think we should try to limit these earlier statements. I was wrong probably to open this up in the beginning, because we want to hear from the witnesses.

But, as a matter of fairness, does either Senator Boschwitz or Senator Pressler have a remark or two?

Senator **Boschwitz**. The Senator from Minnesota has no opening statement. He is anxiously waiting to hear from the witnesses and thanks the Chairman.

The **Chairman**. I thank the Senator.

Senator **Pressler**. Let me join in welcoming the witnesses.

I have no formal opening statement except to say that I do not think there should be any presumption against the administration. There has been a presumed accident and a tragedy, and we lost some good people. But the fact of the matter is that we have had this policy of a naval presence in the Gulf since 1949, and I hope that this hearing is not taken as one of criticism of the administration's policy or the Joint Chiefs of Staff, because I think they both have been pursuing a very logical policy. They are keeping Iran and the Soviet from controlling that "lake," and that is what our policy should be.

The **Chairman**. Thank you very much, indeed.

Secretary Murphy, the floor is yours.

STATEMENT OF HON. RICHARD W. MURPHY, ASSISTANT SECRETARY OF STATE FOR NEAR EASTERN AND SOUTH ASIAN AFFAIRS, ACCOMPANIED BY MICHAEL J. MATHESON, ESQ., DEPUTY LEGAL ADVISER, DEPARTMENT OF STATE

Ambassador **Murphy**. Thank you, Mr. Chairman.

The administration welcomes the opportunity today to appear before your committee as part of our ongoing consultations with the Congress on developments in the Gulf.

We hope to address the specific concerns that you and your colleagues have raised this morning.

I have a longer statement for the record, Mr. Chairman, but, if I might, I would summarize that.

The **Chairman**. Certainly, and your statement will be inserted into the record as if read.

Ambassador **Murphy**. Thank you.

The United States today has three overriding objectives in the Gulf: to galvanize the international community to press for a just end to the Iran-Iraq War; to motivate the Iranian leadership to cease its aggressive posture and rejoin the ranks of peaceful nations; and to prevent a strategic gain by the Soviet Union in the region.

Neither of these tasks is easy, but both the stakes and the risks to major U.S. and Free World interests are extremely important, making it equally important that we pursue these tasks.

Over the coming weeks, we will be working intensively with both our allies and our friends in the Gulf to obtain support for this critical effort. At the same time, we will be completing our plans for the protection of U.S. flag vessels in the Gulf and for keeping the Strait of Hormuz open to the free flow of oil.

No action will be taken to implement this protective regime until the President is satisfied that we will be able to do it properly, and until Congress has been fully consulted.

A series of decisions taken by Iran during 1986 has changed the conventional wisdom that the war really posed no imminent threat to the basic flow of trade through the Gulf. Iran's ability to close the Strait of Hormuz was increased by acquisition of Chinese-origin Silkworm anti-ship missiles. The first was tested last February—February of 1987.

Earlier, Iran had searched and taken a Soviet arms carrier to Bandar Abbas last August. That ship was eventually released. But, by September, the Soviet Navy had responded by introducing a frigate into the Gulf for the first time on prolonged patrol.

There are now seven Soviet ships either in the Gulf or just outside the Strait of Hormuz.

Beginning last fall, Iran increased direct pressures and intimidation against Kuwait.

We cannot be sure of Iranian motivation for these steps, but they seem to have been based on the false assumption that the international community and nonbelligerent third parties in the Gulf would accommodate to these moves to expand Iranian influence as it sought to put pressure on supporters of Iraq.

As Secretary Shultz noted to this committee in his testimony last January 27, American interests in the Persian Gulf have long been readily defined.

We have a vital economic stake in seeing that the region's supply of oil to the Free World continues unhampered. We have a strategic interest in denying the Soviet Union either direct control or increased influence over the region or any of its states. And we have major political interests in the nonbelligerent Gulf states, both in their own right and because of their influence within the Gulf and beyond.

I would like to elaborate briefly on the subject of Persian Gulf oil.

The United States, and particularly its allies, are substantially dependent on oil imports today, much of which comes from the Gulf. This dependency will sharply expand in the future.

In 1986, 46 percent of the oil imports of OECD Europe was from the Gulf; the comparable figure for Japan was 60 percent. Whereas only 15 percent of our total imports of 5.2 million barrels a day originated in the Gulf last year, that level will rise substantially in the years ahead, as our overall imports rise and supplies from other sources decline. Most of the world's oil resources and excess capacity are located in the Gulf region.

We are working closely with our allies and friends in the International Energy Agency to reduce the vulnerability of our economies to oil supply interruptions, and we are being successful. But we should not forget that only small supply disruptions or threatened disruptions can have major adverse price impacts because of the short-term psychological factors. The supply disruptions of 1973–74 and 1978–80 were less than 5 percent, but they led to a quadrupling of oil prices in the first instance and more than a doubling in the second.

Even a much smaller price hike caused by a real, or perceived, supply threat could levy a substantial cost on our economy.

Thus, I submit that those who argue that others, not the United States, have the oil problem or should be concerned about the Gulf situation miss the point. Our economic well-being is involved, particularly since our economy is the most oil-intensive of the major industrialized nations.

That others may suffer more is not a persuasive argument for us to do less than our interests require.

Our various interests in the region give the United States an obvious stake in better relations with Iran. The President has said that the United States recognizes the Iranian Revolution as a fact of history. We look to an eventual improvement in our relations with Iran, but our interests are directly threatened by the Iranian Government's pursuit of its bellicose and terrorist policies.

Changes in Iran's pursuit of its war with Iraq, its sponsorship of terrorism, and its collusion with terrorist forces elsewhere in the region will be necessary before our bilateral relations can begin to improve.

The Iraqi attack on the U.S.S. *Stark*, with its tragic loss of American lives, has refocused national attention on the question of our interests and our policies.

What has been noteworthy about this debate is that American interests in the region, and in helping to end the war, are not being challenged.

The debate has focused on how we are going about protecting and promoting those interests.

The message that this hearing and subsequent hearings, I am sure, will send to the region is that our internal debates do not reflect any discord over our goals. These enjoy wide bipartisan support.

The United States is actively pursuing diplomatic efforts to end the war. As the President noted in his two key statements on the war last January and February, it is time now for the international community to become more active.

We are taking an active role on this issue at the United Nations Security Council and the war will be a subject of discussion at the upcoming Venice Summit.

While the Soviets have said that they favor an early end to the war, they have been able to manipulate the understandable anxieties of the nonbelligerent states of the region—to their benefit. And they are pressing actively for increased diplomatic, commercial, and military relations.

Now, we all remember that the Gulf has long been a strategic object of intensive Soviet interest. But they have been largely excluded from playing a significant role because of the views of most of the littoral governments.

The Soviets have been steadily pursuing a campaign of disinformation, contending that the United States works to further inflame the war in order to better establish our military presence in the Gulf. This is irresponsible and outrageous propaganda.

If the Soviets truly favor an early end of the war, as they say they do, I have a straightforward challenge for them: join us and join the international community in concrete steps to end this war now.

What would these steps be?

One key method we have revived is our Operation Staunch, our effort to inhibit military supply to Iran from our friends and allies. It has succeeded in many ways, but the Soviets could do much more to close down and to complicate the steady stream of arms to Iran from North Korea, from Eastern Europe and China.

Our friends and allies could do the same with various Western sources. With concerted international efforts, Iran's logistic ability to pursue the war could be further constricted. It is this international effort that is the new element in our Security Council initiative.

For years, Iraq has been willing to negotiate an end to the war and has accepted virtually all reasonable international efforts to pursue negotiations and mediation of the end.

We do not see it in our interest to have either belligerent gain a victory in the war. However, because of our interest in seeing the Iranian Revolution contained within Iran, it is important that Iraq be able to sustain its defenses.

Our relations with Iraq have expanded substantially since diplomatic relations were established in 1984. Our ability to communicate frankly with each other kept the tragedy of the U.S.S. *Stark* attack in context, so as to preserve our larger relationship.

Iraqi willingness to promptly accept responsibility for the attack, its agreement in principle to provide compensation, and its suggestion that a joint team investigate the attack, all reflect a forward movement in a relationship which was severely strained in November, when the arms transactions in Iran became public.

Kuwait is the nonbelligerent Gulf state which is receiving the brunt of Iran's public and private pressures, presumably calculating that Kuwait is the weakest link on the Arab side of the Gulf. Iran's efforts to sway it from its support for Iraq run the full gamut of pressures—assassination attempts, sabotage, training of subversives, attacks on shipping, and public and private threats and ultimata.

If Iran succeeds in coercing a change in Kuwaiti policies, it will, no doubt, target the other Gulf states.

There is no doubt that the developments of the past 9 months in the Persian Gulf have heightened the risks of a spread of the war to third parties. Miscalculations on the part of Iran and Iran's inability to make headway on the ground war have created circumstances in which the previous limitations on the conflict—geographic, political, and strategic—are eroding. We have an immediate need to deter Iran from making cheap gains through intimidation and blockage of shipping in the Gulf.

Since the United States first deployed a naval presence in the Gulf in 1949, we have demonstrated the continuity of our interests in this resource-critical region. And while we are determined to assist our friends when they ask for appropriate assistance, our goals are deterrence of attacks on shipping and bringing an end to the war.

We have no interest in provoking any power.

We will not carry our desire to be unprovocative, however, to the extreme sought by Iran.

The Iranians have been clear that their goal is to keep us, as well as the Soviets, out of the Gulf. It is critical to Western interests that the complex and dangerous situation evolving in the Gulf be resolved in ways which promote the stability of the region.

This requires, among other things, containment of the Iranian Revolution within Iran and the blocking of further Soviet strategic access to the area.

The only way to accomplish these goals is to bring an end to the Iran-Iraq War. As it continues, it creates an environment where peaceful, moderate regimes are increasingly at risk, where Iranians who want to export their revolutionary model gain ascendance, and where nervous and anxious moderate regimes invite Soviet involvement, especially when they are uncertain about America's commitment.

The result is an explosive and dangerous mix of colliding national interests, growing insecurity, tactical miscalculations, and cynical, strategic manipulation.

Since the interests of the entire Western world are involved, the United States would welcome—indeed expects—renewed expressions of public support and assistance from our allies in Western Europe and Japan.

These allied efforts can take many forms—diplomatic initiatives, agreements to further monitor and restrict the flow of arms to Iran as the recalcitrant party, and cooperation of naval units present and near the Gulf.

We may well need further support from the GCC states. While the specifics of our requirements remain under study, we will actively and forthrightly seek such facilitation of our efforts, which have to be joint if they are to be successful.

We are willing to assume our global responsibilities and do the job, but we must be sure we have the necessary means to accomplish our objectives, and this includes appropriate and active support from allied and friendly governments, whose interests are as heavily involved, if not more so, than ours in this strategic region.

Finally, as the Secretary stated in his letters to Congress following the attack on the *Stark*, the President has directed that the relevant committees and leadership of Congress be fully briefed.

As we go forward with the efforts I have outlined, we intend to keep the Congress fully informed, and we will take no action to implement the protective regime until the President is satisfied that we will be able to do it properly and in consultation with Congress.

Thank you, Mr. Chairman.

[The prepared statement of Ambassador Murphy appears in the appendix.]

The CHAIRMAN. Thank you very much, Mr. Murphy.

Mr. Armitage.

STATEMENT OF HON. RICHARD L. ARMITAGE, ASSISTANT SECRETARY OF DEFENSE FOR INTERNATIONAL SECURITY AFFAIRS

Mr. ARMITAGE. Thank you, Mr. Chairman.

At the outset, I would like to note that Senator Moynihan was kind enough to congratulate the witnesses on their openness.

But I must say, sir, you have set a very difficult task for us today because, as we are with you, trying to explain what we are about in the Gulf, to include some of the details of the proposed protection regime, the President is, at this moment, meeting with his senior advisers to discuss and perhaps to decide on some elements of that. So, if you will take that into consideration, perhaps we can, at the end of this, escape with our reputations still intact.

The CHAIRMAN. We understand that there is a meeting going on at the White House, but we are very appreciative of your being here and telling us what you can and exposing you to our views.

Mr. ARMITAGE. We will tell you the situation as we know it at this time.

The CHAIRMAN. Thank you, Mr. Secretary.

Mr. ARMITAGE. If I may make just a few brief remarks, I do not have a prepared statement.

I want to say that no matter how terrible and heart-rending the tragedy of the *Stark* was, the May 17 tragedy, that terrible event, in and of itself, did not signal a new level of danger in the Gulf. The Gulf has been dangerous for some time. The President has tried to bring this to the world's attention and to the Congress' attention, the American public's attention, and those were the reasons behind his January 23 statement and his February 25 statement.

As an evidence of the danger in the Gulf, I would like to cite that in 1984, there were approximately 30 ships attacked—during that year. In 1985, the number rose to about 50. In 1986, it went to 102.

From January to May of this year, we have had 47 ships, which were attacked in the Gulf.

We would estimate that 300 ships a month enter and leave the Gulf. So that is about 600 transits, and of those, approximately 2 percent come under attack.

I am often asked what do we want in the region.

Senator BOSCHWITZ. By whom?

Mr. ARMITAGE. Pardon me?

Senator BOSCHWITZ. By whom?

Mr. ARMITAGE. By Iraq and Iran, both sides, though it's not quite equal.

Iraq, over the last 3 years, has hit about 140 tankers and Iran has hit somewhat over 90 in the last 3 years.

I am often asked, administration witnesses are often asked what do they want—I mean, you're neutral in the war, aren't you?

Well, indeed, we're neutral, and, as the President stated, we want neither victor nor vanquished. We want a negotiated settlement to this conflict.

There are many, there are even some here who argue well, it's all right for those two to bang away at each other, that's really the best thing, let them occupy their energies against each other.

Well, the administration has never accepted that. We have always been fearful of instability being uncontrolled, or of terrible events, like the *Stark* tragedy, unfolding, if they are allowed to just bang away at each other.

So, while we want no victor, I can assure you that we cannot stand to have Iraq defeated in this conflict. In my view, and I believe in Ambassador Murphy's view, that specter could lead to instability from Marrakech to Bangladesh, indeed, and perhaps even to farther-flung locations.

Why help Kuwait?

Well, Kuwait is a friend. Kuwait is a moderate. They even have a form of democracy.

They have, as Dick stressed, been standing up to threats of terrorism and, indeed, acts of terrorism—witness the oil refinery the other day, which suffered a bombing. They have asked for our help and they deserve it.

As I have said, we definitely want to keep Iran from winning, and, above all, we want to maintain the Persian Gulf as an area of Western interest, an area which serves Western interests and which is free of the primacy of Soviet dominance.

The question Senator Boschwitz just posed: aren't both sides hitting the tankers? Well, sir, you are indeed correct.

Iraq, however, is hitting Iranian tankers or tankers which are leased by Iran and operating to and from Iran ports. The Iranians are hitting neutral and nonbelligerent tankers operating to and from non-belligerent ports. There is a difference in their attacks, a difference.

What is the size of the problem we face?

Protection for American flag ships in the Gulf is not new in and of itself. We have been protecting four or five ships a month, of American registry, in the Gulf, for quite some time. What is new is the proposal to add to that 11 reflagged tankers, former Kuwaiti tankers, which will now come under United States flag.

The process of reflagging is relatively simple. It requires that a nation be able to certify that a foreign flag has been denationalized. It takes some technical measurements of the ship and inspections of safety standards of the ship and, finally, identification of true ownership by an American company. That is what is engaged in reflagging, and that is what all this means.

The master of that ship, after reflagging has taken place, will be an American. The crew, we believe, will be primarily British and Filipino.

Finally, there has been an awful lot of speculation about June 3 as the starting date for this regime. This is nothing but speculation. The reason I dare say that is because June 3 was the date in our planning that we thought the first Kuwaiti tanker might be available for reflagging, that the procedures might be accomplished.

The others will take longer. I cannot tell you how long—2 or 3 weeks or longer. But, no matter how long it takes for the reflagging to be accomplished, the fact is, as Ambassador Murphy has stated, the President has made it clear and our officials have made it clear in discussions with the Kuwaitis that nothing moves until we are satisfied that we have a protection regime that reduces the risk to the minimum level possible.

Finally, the President has said further that it's not going to go, nothing is going to go until we have completed our consultations with the Congress.

Finally, Mr. Chairman, and members, I have to leave you with what I believe is a sobering thought. I mentioned that we are going to attempt, the President is going to attempt to reduce the risk to the absolute minimum. But I would be a fool to tell you that there is no risk involved at all. There is a risk. There is a very real risk.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Armitage.

Admiral Mustin.

STATEMENT OF ADM. HENRY C. MUSTIN, DEPUTY CHIEF OF NAVAL OPERATIONS FOR PLANS, POLICY AND OPERATIONS

Admiral MUSTIN. Mr. Chairman, I have no statement. I would like to make just a few brief remarks.

Of course, the entire leadership of the Navy—Secretary Webb, Admiral Prost——

The CHAIRMAN. Would you pull your mike a little closer? Thank you.

Admiral MUSTIN. The entire leadership of the Navy is shocked and saddened by this tragedy, and we appreciate very much the acknowledgment of the American people and the Congress of the United States of the heroism of the crew in fighting the fire after the act occurred.

The Middle East forces, as Senator Moynihan has observed, have been on station for almost 40 years. We have a clearly defined and well understood mission. During those 40 years, we have adjusted both the size and the capabilities of that force to respond to changing situations, and we understand the region.

As you well know, the present Chairman of the Joint Chiefs of Staff, Admiral Crowe, is himself a former commander of that force.

Finally, the U.S. Navy is now prepared through a detailed investigation to learn everything we can about the details of this incident.

We have an admiral on-scene, who is conducting a formal investigation, which is a very difficult investigation, because a number of the ship's records and logs were destroyed in the fire that occurred after the missile hit.

So, in keeping with Mr. Armitage's remarks, because this investigation is ongoing now, I will be restricted in what I can say in order not to prejudice the legal proceedings as they evolve.

We anticipate that that investigation will be completed in about a month.

Thank you, sir.

The CHAIRMAN. Thank you very much, Admiral Mustin.

I understand, Mr. Matheson, that you do not have a statement. You are here to back up the others.

Mr. MATHESON. That's right, sir.

The CHAIRMAN. We will follow the 10-minute rule and we hope that we can ask sufficient questions in that time.

I will start out myself.

In connection with the safeguarding of the vessels and the tankers as they go through the Persian Gulf by convoy, I am reminded of my own recollections of being on convoy duty in the North Atlantic, where we used to go back and forth between Iceland and Great Britain. We used to lose ships quite often.

I am just curious how you felt that a force as small as we have there can give proper safety or security to a tanker going through the sea.

Maybe that is up to the Admiral or up to Mr. Armitage to answer, I am not sure.

Mr. ARMITAGE. With your permission, sir, I will answer.

First of all, I have to note that the situation that you faced in the North Atlantic was significantly different, the major threat being submarines and other things.

You are, I think, intimating that there will be no change in the force size in the Middle East, and that is one of the subjects that is under discussion now.

There has been some speculation, with good basis, that we do perhaps need for this mission to augment to some extent the mix and the number, the quantity, if you will, of ships in the Gulf. This is being decided at present.

The second thing we are looking at is the threat.

As you realize, Mr. Chairman, we feel there are basically three threats, very obvious ones. First is the Silkworm missile, once it is finally operational. Second, is the surface threat. The Iranians have engaged in what I would call small boat attacks. And, finally, there is the air threat from Iran. It is the judgment of the Joint Chiefs of Staff that with a slight augmentation, they are able successfully to defend themselves and protect these merchant vessels.

But I want to stress that protection is not 100 percent, and that's why I mention that there is risk in this. There is risk to our forces and certainly risk to protected vessels.

The CHAIRMAN. Has any thought been given to having a combined naval command there, with the French, the British and ourselves? We all have vessels in the sea.

Mr. ARMITAGE. We have had discussions with the British and French, relatively informal discussions, at the local level.

The British handle their operation in the Gulf somewhat differently from the way we handle ours. They generally station themselves along a route of transit of the ships that they are interested in, rather than actually protecting or convoying, to use your words.

We have had informal discussions. We have had no formal agreements.

The CHAIRMAN. Isn't this also one of the points around the world where our interests and the Soviet interests are rather similar, because they want to keep the oil flowing, too?

Has there been any thought, instead of thinking of them as the adversary, about trying to get their support in keeping the Gulf open?

Mr. ARMITAGE. Well, if you are speaking in military terms, our efforts have been to limit their ability to work in the Gulf and to be in the Gulf at all. Diplomatically, it is a slightly different call, I suppose.

The CHAIRMAN. But don't they have tankers as well that are under attack and under danger which they have an obligation to protect?

Mr. **Armitage**. They have not protected at all yet. They have suffered I think one or two attacks of late.

Ambassador **Murphy**. Yes, sir. They had an attack. Actually, one of their tankers was holed by a floating mine, and that's one of the three cargo ships that they have chartered to Kuwait.

I question the statement, if I understood it, Mr. Chairman, that our interests and the Soviets' are similar.

Freedom of navigation is a global principal. Yes, there is no question there. But in access to the Gulf, no. It is our vital interest. It is not a Soviet vital interest to be in the Gulf.

The **Chairman**. But there is a similarity in keeping the sea lanes open so that they can get their oil, too.

Ambassador **Murphy**. Yes. But they're not getting oil out of the Gulf, though, sir. They are transporting on tankers chartered to the Kuwaitis, transporting oil to Europe, Western Europe. They are not importing.

The **Chairman**. Has any thought been given to using the United Nations flag rather than the United States flag, so that Uncle Sam is not out in front?

Ambassador **Murphy**. No, sir. Not the United Nations flag.

The **Chairman**. Could that be done?

Could there be a joint operation of that sort?

Ambassador **Murphy**. What we are discussing at the United Nations, Mr. Chairman, is a resolution which will have some teeth in it, which will go beyond calling for a general cease-fire in the Gulf war and get into enforcement measures, what we have called appropriate enforcement measures.

I cannot prefigure those because of the discussions. We are still in mid-flow with our colleagues as the five Permanent Members in the Security Council.

We think there are measures to be taken, to continue to be taken by us, under Operation Staunch, to keep arms from reaching Iran, and we call upon the Soviets to do the same with their friends and their allies.

An international shipping regime we will look at. We would look at a Western shipping regime. We would not encourage a Soviet entry into that.

The **Chairman**. Mr. Murphy, last May 21, I think it was, I wrote a letter to the Secretary stressing my own view that the War Powers Act should be invoked at this time. It is a question, I realize, of judgment, whether hostilities are imminent or not.

The strength of the War Powers Resolution, though, as opposed to a reporting requirement, which the Congress pass and which you acknowledge, is that, under the War Powers Resolution, the Congress has the right to pull the forces back after 60 days or 90 days, once it is invoked.

If you see some attacks coming along, a couple of tankers being sunk or being harassed or being damaged, would that not mean that the War Powers Act should be invoked, because then you would have no question, without any doubt, about hostilities occurring if we lose ships?

Ambassador **Murphy**. Mr. Chairman, we will keep the situation under review. We will consult fully with the Congress as it develops.

But, as of today, we consider that the resolution only applies as U.S. forces are introduced into active hostilities or into a situation where their imminent involvement in hostilities is clearly indicated by the circumstances.

Under present circumstances, today, we have no basis to conclude that there is such a clear indication of imminent involvement of our forces through their role of escorting tankers.

The **Chairman.** I would agree with you that this is a question of judgment today. It's like whether this glass [indicating] is half full of water or half empty. But the question I am putting to you is if it blows up a certain amount and the tankers are attacked, if there are hostilities, what would be the intention of the administration?

Ambassador **Murphy.** We will keep it under review, Mr. Chairman, and stay in close touch with the Congress.

The **Chairman.** The War Powers Act is the law of the land.

I was one of those on this committee who worked very actively to try to get it passed, and I think we should keep in mind that accepting a certain discrepancy in viewpoint today—I see that—if the situation becomes worse and attacks become more frequent, then I would hope you would see fit to invoke it.

Mr. **Armitage.** If I may, Mr. Chairman, we acknowledge and abide by the law of the land. But the situation that you asked us to respond to is, indeed, hypothetical.

I think Dick's answer was exactly right. We will review the situation and, depending on the circumstances, consult. That does not address the administration's or past administrations' feelings about the War Powers constitutionality issue and things of that nature.

The **Chairman.** Right.

I realize the administration questions the constitutionality of it, but it does not question the fact that it is presently the law of the land.

Mr. **Armitage.** Not at all. We abide by the laws.

The **Chairman.** Thank you.

Senator Lugar.

Senator **Lugar.** Thank you very much, Mr. Chairman.

I appreciate your testimony, Mr. Murphy, in which you have set out three goals of the administration and they are explicit and they are important, I believe, to press for a just end to the war; to attempt to contain Iranian hegemony in that area; and to prevent a strategic gain by the Soviet Union.

I would say respectfully to the Chairman that the third objective I think is very important. This is not a cooperative venture. At least as I perceive part of the scenario for the current situation, there were doubts on the part of the Kuwaitis, in particular, following reports of our shipment of arms to Iran, and they sought protection. They sought it from the Soviets as well as ourselves.

As I review the record, the Soviets were more immediately forthcoming with the desire to lease three ships, and this caused concern, as it should have, for our administration.

So we have then reacted in part to that situation. But we have also had to react because of some doubts cast by a policy that we now all agree did not work out.

Now, it seems to me that the basic change in the situation that would bring the War Powers Act to the fore is that Iran has stated that it will fire on our ships if they see a tilt, and they do see a tilt in our helping the Kuwaitis ship oil.

I suppose the mitigating circumstance in your testimony today is the fact that you state that no action will be taken to implement this protective regime until the President is satisfied that we will be able to do it properly and until the Congress has been fully consulted.

It seems to me, as the explanations have come, they have made sense, that we have not had the transfer of flags, and we will not have the transfer of flags until all four corners of the agreement are pinned down. Those include very heavy consultation with the Arab states that are clearly affected and whose safety, whose regimes may be at stake. Certainly the Kuwaitis had some of these thoughts in mind when they approached the Soviets and ourselves.

It also, given the Venice Summit, which was mentioned, affects our allies.

Let me just say that I accept the fact that the War Powers Act may not apply as of the moment. But it would appear to me that in the event that after the President reviews all this, as the safety of our forces is clearly in mind and plans that have been formulated by all relevant branches of our government, and the Joint Chiefs have given their technical expertise, and we have come to agreements with Arab states and our allies, and are prepared to implement it, if Iran still says at that point that they are going to fire on our ships and on our flag, then there is imminent danger. This is because at that point, we will have had, I hope, in place, a plan for retaliation. That retaliation could take many forms. But, specifically, one form could be to take out the Silkworm missiles, which is one way the Iranians have to attack our ships.

This kind of retaliation, if not an official declaration of war, comes very close to it.

So, it seems to me that down the trail, the administration does need to think carefully, as you have pledged to do, about the application of the War Powers Act, because there could be imminent danger, given the very real threats, which I take seriously, of the Iranians to attack us, if they see a tilt going that way.

What I would like to ask of you and Mr. Armitage is, very specifically, this. What requests are likely to be made? You have to, I suppose, be hypothetical because the President is trying to decide what we ought to request. But what requests are being made of Arab states for assistance in air cover, and specifically for cooperative base rights or for arrangements that would give us the ability to have air cover to protect not only the Kuwaiti ships, but, I would perceive, the interests of all those states.

I ask this with the past in mind, of which you, Mr. Murphy, are more aware than any of us, that the Gulf states have not been fully cooperative. The Saudi states have been resistant in the past to giving any such rights at all, and most skeptics say they never will.

I suppose that some of us are saying well, they had better think about it very carefully, given the gravity of their safety, the stability of their regimes, and the risk that we are taking.

Can you describe to me at least what you believe will be the request and the likely cooperation by the Gulf states with us?

Ambassador **Murphy**. If I could make one comment, I would then turn to Mr. Armitage, Senator Lugar.

Basing, bases for American forces in the region, has always excited a nervous and a negative reaction out there. It has connotations of the older days of the British presence, of controls over the regimes, the surrender of sovereignty.

So, the word is not at issue. We are not looking for bases.

What access we will need is a subject that I would ask Mr. Armitage to address. Based on our determination of what is needed, we will be carrying on these discussions with the Arab states. But I do not fault in the least your analysis of what is at stake in the Arab nations of the Gulf to assist our presence and our ability to protect our ships.

Mr. **Armitage**. I also agree with your analysis of the Arab states, Dick, and Senator Lugar.

Before I answer specifically, may I remove what I think might be some misconceptions in the minds of some of the members and certainly in the public's mind.

When we are talking about a "protection regime," we are not talking about a 24-hour-a-day regime, first of all. We are talking about periodic protection of ships, ships which leave when we direct them to leave, and ships which return when we say we are ready to do this.

The whole transit, from Kuwait through the straits and back, one way, is 780 miles, or between 40 and 48 hours. So, whatever the period between transits, and, hypothetically, let's say ten days, you would have 2 days out of 10 days in which you would be engaged in this activity.

The question of air cover over the ships and whether it has to be over or whether on alert is another one that is being discussed right this moment.

Frankly, if we have enough of an AWACS view, an aerial surveillance view, it is not necessary to have fighter aircraft standing overhead. They are able to scramble in time, if we have some arrangements with some of the Gulf countries.

Just which Gulf countries we will approach, which are the closest to the highest threat areas, are subjects that are being discussed right now.

Obviously we also have some abilities ourselves. We have our carrier air, though the carrier remains in the Indian Ocean and not in the Persian Gulf itself. These aircraft can be used during times of high threat to provide CAP or combat air patrol.

But the decisions on which specific countries will be approached for what is being decided right now.

Senator **Lugar**. By arrangements, I suppose you imply that there could be American aircraft taking off from Gulf states?

Mr. **Armitage**. Well, I guess that is an implication. It would not be my preferred——

Senator **Lugar**. As opposed to carriers?

Mr. **Armitage**. Yes. It would not be my preferred option. I would prefer that the Gulf states took some of this burden on themselves, and some of them are able to.

But, as I say, we have not entered into discussions with them, other than Kuwait, and, thus far, as we have testified in front of the House, Kuwait has extended to us what cooperation we have requested, primarily in the use of fuels and facilities.

Senator LUGAR. I think it is helpful to point out, as you have, that there could be convoys that move, as you say, for 10 days, and then you would have 10 days off or 20 days off.

On the other hand, the policy has not been altogether clear, and maybe this will be cleared up, as to how many ships, in addition to these 11 tankers, are going to be protected. And indeed, some of the rhetoric with regard to protection of everything on the high seas and so forth has implied a good bit more.

In the event there is a good bit more, then the tactical arrangements and the protection has to change, and I would hope, too, for potential participation by Great Britain or France or other maritime powers, who would be asked specifically for their aid to the "United Fund" in this situation, and that this is cleared up before the President signs off.

In other words, I think we have an opportunity not only for congressional, but for very explicit administration planning before the very first part of this situation gets underway.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Lugar.

Senator Kerry.

Senator KERRY. Thank you, Mr. Chairman.

Let me just say at the outset—and I don't know if this is shared by everybody, but I think it is by most—that we are supportive of a fundamental presence and this is not an issue about Iraqi shipping. I think it is a larger issue about free transit, about a friendly nation and about a form of democracy.

We are supportive of that. It is important in geopolitical terms. It is important in terms of oil, and there are a number of clear reasons why we ought to be there. I think people are supportive of that.

But it seems to me that there is a history in this administration's procedures. That is one of the reasons we are here today and it raises the question of the legitimacy of actions, of building a consensus, of how we mutually define policy.

The front page of the New York Times, and other papers, describe how the administration has announced a plan which is a policy in this region and pulled back from that plan. One moment we are going to put flags on Kuwaiti ships and the next moment we are reconsidering.

Now, what kind of message does that send? What does that show about policy in this region and the degree to which it has been thought out or not thought out? How does that give us confidence that you really know what you are doing in terms of the next step?

Ambassador MURPHY. It shows some bad reporting on the part of the New York Times, Senator.

Senator KERRY. So that is not accurate?

Ambassador MURPHY. It's not.

Senator KERRY. You didn't announce that we were going to do this?

Ambassador MURPHY. We did not announce, and we certainly have not flip-flopped on the question of continuing the process of registering those 11 tankers with the U.S. flag, the procedures we have touched on earlier.

There is no change in saying that we will wait, that this regime will not go into effect until all the ducks are in line.

Senator **Kerry**. That was only after criticism was raised by both sides of the aisle here on the Hill. It was originally stated, as a matter of policy, that we were going to do this and that we we were proceeding toward its implementation.

Ambassador **Murphy**. Yes, Senator. But I refer back to hearings, closed hearings before this committee and the House Foreign Affairs Committee, briefings provided to both individual members of Congress, to staffers when other committees were not available, in March, about the effort and the thought we were giving to this program of reflagging.

We did not try to hide it. In fact, we came up here very deliberately and very quickly, when the President had made his decision in March.

So, to the extent that we stand accused of not consulting and not being ready to consult with the Congress, I regard that as a "bum rap."

Mr. **Armitage**. Senator Kerry, with your permission——

Senator **Kerry**. Let me come back to that, if I can, for a minute, because I want to try to pursue something here that I think is part of the framework within which I am speaking.

You say the War Powers Act does not apply.

Ambassador **Murphy**. I said that under the present circumstances, we have no basis to conclude there is a clear indication of imminent involvement of our forces through their role of escorting the tankers, or even before we started escorting the tankers.

Senator **Kerry**. So, your subjective judgment as to section (a) is that section (a) does not apply. But does the War Powers Act apply here?

Ambassador **Murphy**. Could I ask Mr. Matheson to address the specifics there?

Senator **Kerry**. Well, what is the policy? What is the view of the administration? Is it the view of the administration that the War Powers Act applies?

Mr. **Armitage**. I don't see how it can apply in a hypothetical situation, Senator Kerry.

Senator **Kerry**. Well, it is not hypothetical.

Section 4(a), paragraphs 1 and 2 say that you have a responsibility to report in the absence of a declaration of war in any case in which U.S. Armed Forces are introduced, (1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances; (2) into the territory, airspace or waters of a foreign nation—which is where we are—while equipped for combat—which is what we are—except for deployments which relate solely to supply—which it doesn't—replacement, repair—which it doesn't—or training of such forces—which it doesn't.

So paragraph (2) of the War Powers Act does apply here, does it not?

Mr. **Matheson**. Senator, it has never been considered by either branch that section 4(a)(z) applies to the passage of U.S. warships into or though foreign territorial waters where there is not a combat operation going on.

U.S. warships do this every day and have done so every day since the War Powers Resolution was adopted.

Senator **Kerry**. That's not what they're doing.

If you're going to pretend to us after 37 sailors have been killed and after we have said that we are going to protect people and we're supposedly there, according to the President, to protect shipping—that's not passing through the waters, is it?

Mr. **Matheson**. Well, first of all, you're talking about operations that are going to be conducted in international waters. But, even if they were to occur in territorial waters, the Resolution has never been applied to that kind of nonwartime, noncombat activity.

The attack on the *Stark* was evidently an error in target identification. It was not a deliberate attempt to initiate hostilities with the United States.

We do have a necessity, under section 4(a)(1) to make a judgment as to whether there is a clear indication of imminent involvement in hostilities, and we have made a judgment. We will continue to review that.

Senator **Kerry**. OK.

Mr. Secretary, I'd like to ask you and the Admiral this question.

Admiral, maybe you can answer this.

I spent a number of months in the Tonkin Gulf on a station in the Navy, at a state of readiness three, right off the coast of Vietnam, watching MIGs come out at us. We weren't in a higher state of readiness.

I don't think we transit in most international waters in readiness state three, do we?

Admiral **Mustin**. We do not.

Senator **Kerry**. And have we not, in the wake of the *Stark*, issued instructions as to greater vigilance?

Admiral **Mustin**. We have. But we also were at readiness condition three in the Persian Gulf prior to the incident.

Senator **Kerry**. I absolutely understand that.

Admiral **Mustin**. And in other areas of the world we are.

Senator **Kerry**. Are there not incidents where planes are flying at us and the radar and CIC are picking up a lock-on?

Admiral **Mustin**. Yes, sir, there are.

Senator **Kerry**. And doesn't a lock-on indicate that somebody is targeting you?

Admiral **Mustin**. It may or may not.

Senator **Kerry**. Well, what supposition does somebody in CIA make when they get a lock-on?

Admiral **Mustin**. Somebody in CIA, when they get a lock-on——

Senator **Kerry**. I mean CIC. The CIA we talk about a lot, but CIC is what we're talking about here.

Admiral **Mustin**. The people in CIC assume that there is a potential danger and they react to that. This happens all over the world. We are repeatedly locked on, for example, by Libyan aircraft, and we don't shoot them down. We have been locked on on numbers of occasions by Soviet aircraft and Soviet ships, and we don't shoot at them.

So, these things happen. What they do is place a premium on the judgment of the commanding officer, who has to consider the lock-on in the context of the world that he is experiencing at the time. The world in the Persian Gulf today is very different from the world in the Hampton Roads operating area.

Senator KERRY. I totally agree with that, and in light of what Secretary Armitage said, 30 ships in 1984, 50 ships in 1985, 102 in 1986, and 47 in January to May 1987, and 37 dead sailors, isn't it a fair assumption that there is an expectation, particularly in the wake of what the President said? I think the President said we're going to shoot back, we're going to shoot ahead of time.

Did he not say that?

Mr. ARMITAGE. That we are going to, at the sign of hostilities, shoot back and ask questions later.

Senator KERRY. Now doesn't that, just on its face, in simple, common, layman's terms, say to us there is the possibility of imminent hostilities? I mean, who are we kidding here?

Mr. ARMITAGE. The other side of that coin, Senator Kerry, is that——

Senator KERRY. Well, tell me about this side of the coin.

Mr. ARMITAGE. Well, sir, I have to give you the other side so that we see both of these in the same daylight. And that is that U.S. ships, whether they are merchant ships, which do ply the Gulf—U.S. warships have not been targeted in the past, ever.

Now, your question is do we think they are going to be targeted again? I don't know. I told you that I'd be a fool to sit here and tell you there was no risk in what we are undertaking in the Gulf.

If you're trying to get us in what is almost a lawyer's game—and Dick and I are not lawyers—we have to plead innocent.

Senator KERRY. I'm not trying to do that, honestly.

Mr. ARMITAGE. We have said that we abide by the law of the land, in answer to Chairman Pell's comments. This does not say anything about what we feel concerning the constitutionality of War Powers. But I cannot, and neither can Dick Murphy or Admiral Mustin, give you an answer in the absence of a specific that is going to satisfy you.

Senator KERRY. Well, truthfully, I'm not trying to play a lawyer's game. I don't think that is what this is about.

I'm trying to play a common-sense policy-building game. I mean, I don't understand what you are afraid of with respect to the War Powers Act.

Why not say yes, let's get together on this? Why not consult and be ready to submit to its provisions?

What do you lose by that? What does the country lose by that? What is the fear of this War Powers Act?

I'd like to hear from the policymakers on this.

Ambassador MURPHY. What we are doing is everything short of War Powers: coming to you publicly and coming to you privately, Senator, to consult fully. There will be no hidden agenda, no secrets. Secrets will be kept, we know, by the Congress, on those issues, such as the Rules of Engagement, that have to be preserved for the safety of our fellows.

But the consultations under the present situation, we think that the present situation simply does not call for invoking the War Powers.

The CHAIRMAN. I think Mr. Armitage wishes to respond to that, too.

Senator KERRY. Mr. Armitage.

Mr. ARMITAGE. Thank you.

If I may, Senator Kerry raised a very important point in his initial statement. It concerned consultations with Congress.

I think it deserves an answer.

Dick did say something that I want to reiterate, because it is very important.

The President deliberately issued a statement January 23 and a different one and a further one on February 25, and we deliberately brought those to the Hill, certainly at the staff level.

I think we have had a dozen or more testimonies over the past several months on this issue of the Persian Gulf.

If you say you have not consulted enough, then that's a judgment, and you are probably right. You can never consult too much.

But if the implication, sir, was that we have not tried at all, then, as Dick said, that is a "bum rap, 'because we have been up and about quite a bit.

Senator KERRY. That's not the implication.

Mr. ARMITAGE. Thank you.

Senator KERRY. I'm not saying you haven't tried at all. I am really getting at the issue of why not build a stronger case.

If you said to me, Senator, I think it is a mistake to raise this to such a level of heightened anticipation and fear by invocation of the Act, that seems to me a sounder reason than what you have given me. But you are not even saying that.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Kassebaum.

Senator KASSEBAUM. Thank you, Mr. Chairman.

I would gather that you have ascertained or will ascertain that there is, I believe, strong consensus on the committee for the objectives that you outlined, Ambassador Murphy.

I think there is certainly concern, however, about just how we reach this particular point and where we wish to go, because certainly I think everyone understands that there are risks involved, and the only success in such an effort is the will and commitment, not only here but in the rest of the country, to support the policy and be willing to take those risks.

I would like to know just a couple of things.

One, when you gave the number of attacks that had been made in 1985 and 1986, when did we start thinking about protection for the shipping through the Gulf?

Mr. ARMITAGE. I think we had our first discussions in the Kuwaiti situation in January, Senator Kassebaum.

Senator KASSEBAUM. Was this because, as has been reported, the Soviets had decided to help protect the shipping?

Ambassador MURPHY. Certainly that was a principal factor. But protection of shipping, of course, has been one of the roles of comity for our flag, and our flag has been in the Gulf over the decades.

Senator **Kassebaum**. But we had not decided to take any action really regarding any of these other and increasing attacks?

Mr. **Armitage**. Well, we had not made a decision prior to January regarding any other country reflagging or protection for any other country's flag.

Senator **Kassebaum**. These objectives were ones that were just as valid, it seems to me, in 1986 as they are in 1987.

Ambassador **Murphy**. Yes.

Senator **Kassebaum**. Did we have to wait until the Kuwaitis asked us? I believe you said the Kuwaitis asked us.

Ambassador **Murphy**. On those objectives, Senator, we did not wait. When we speak of galvanizing the international community to press for an end of the war, we have been trying to work Operation Staunch specifically, leaning on our friends and our allies to cut off supplies to Iran as the recalcitrant party.

That has been a formal program for the last 3 years.

Senator **Kassebaum**. I realize that, of course. And I am sure that with the difficulties that we have perceived, that our allies perceived with our policy, as it came to light in the so-called sales of arms to arms, it set that back a bit.

Ambassador **Murphy**. Yes, it did.

Senator **Kassebaum**. But what I meant by the objectives was more in line with the shipping decision and if we had calculated previous to the January decision that we should get more involved.

Ambassador **Murphy**. We didn't have a request until December. That was when the request came to us from the Kuwaiti authorities.

Senator **Kassebaum**. One of the problems, it seems to me, that we face with a greater U.S. presence at this point is the expansion of unconventional or terrorist activities there.

Have you given any thought to what our response should be if there are unconventional attacks made on the flagships or our ships?

Mr. **Armitage**. In our calculations, we have taken into consideration everything from suicide boats and planes, which I think you are referring to, to underwater swimmers. We have considered all of those.

Senator **Kassebaum**. And we have made a determination that we will respond?

Mr. **Armitage**. Yes, if your point is that we will protect our ships and attempt to the best of our ability to protect the reflagged ships. But when you say "respond," a decision on retaliation is one that rests with the National Command Authority.

If we have plans—yes, we have plans, always.

Senator **Kassebaum**. I think, following on what Senator Lugar said, this is an opportunity for explicit planning, and I think, as a matter of fact, everyone would feel more comfortable knowing there is, with some certainty in dates, not only careful thinking on our part where we go, but in coordination with our allies.

Mr. **Armitage**. That is the subject of the meeting today. We will certainly carry back the strong conviction of the entire committee that that is the case, to our bosses.

Senator **Kassebaum**. Thank you, Mr. Chairman.

Those are all the questions that I have.

The CHAIRMAN. Thank you.

Senator Adams.

Senator ADAMS. Thank you, Mr. Chairman.

I may not feel the consensus that some others do because I cannot see why the War Powers Act doesn't apply. I want somebody here to tell me why it doesn't apply, when you have hostilities, and you are looking at a Gulf where the triangle of three countries, Kuwait, Iran, and Iraq, all meet in a narrow gulf, less than 100 miles wide. There has been a sinking of ships steadily for three years. We have just lost 37 people. So you explain to me why that is not hostilities.

Just something simple—not as a lawyer, but just a simple explanation.

Mr. Ambassador.

Ambassador MURPHY. Well, you'll get the simplest explanation from me, Senator, I guess.

We have made our judgment about the threat based on a governmentwide agreement by the intelligence community.

Now, that has been called subjective, and ultimately, yes, it is. I mean, there are men who are looking at the data.

Senator ADAMS. OK. You have made that decision.

All I want you to know, at least from this Senator, is that I think you are wrong. I cannot see how possibly you can conduct an operation which you are about to escalate in a very narrow area under those assumptions. That is going to lead to my second question.

How many aluminum type light frigates and other ships, Admiral, are you going to put up there in the top of that Gulf?

We went through the Falkland Islands. You and I both agree, don't we, that with steel plate you have a chance, but with aluminum, light-weight vessels, when that Exocet hits it, you have an aluminum Christmas tree fire.

Admiral MUSTIN. Senator, we don't know how many aluminum ships we are going to put in the Gulf because, as Mr. Armitage said, that decision has not been reached.

The facts of the matter are that we have ships that have aluminum superstructures. The facts also, as we understand them in the case of the *Stark,* is that aluminum was not a major contributing piece of the conflagration.

Senator ADAMS. Well, I'll tell you, when you get finished with that, lay it up against the British and Argentine experience in the Falklands, and maybe you can submit to us some written materials on it.

Admiral MUSTIN. We will, indeed, sir, and we will show you a picture of the *Stark,* which is still afloat, as compared to those other ships.

Senator ADAMS. Absolutely.

[The information referred to may be found in the files of the committee.]

Senator ADAMS. My second question is this. It is 100 miles wide. Are you going to put a carrier group up at the top of that Gulf?

Admiral MUSTIN. We don't intend to now.

Senator ADAMS. I would hope not.

But what is bothering at least this Senator is you have hostilities, you have every day it being stated all over Capitol Hill that we have aided one side as opposed to the other, whether we like it or not, and now we are going to reflag vessels, which is not ordinarily done, and go up into the top of a very narrow Gulf with no maneuvering room, and you don't think this is an exercise of the War Powers, or brings into play the War Powers Act?

I just want to be very certain that everyone at the table has at least this Senator's message and replies to it however the hell you want to reply to it.

We got into a war on the Gulf of Tonkin with two motor boats. What you are talking about here is an inflamed adversary, both well equipped in very narrow waters, and we're going to not only do our ships, we're going to add to them the Kuwaiti ships.

Ambassador MURPHY. I'd only add, Senator, that our whole effort is deterrence in this affair. We are making every effort to communicate publicly and privately with the Iranians: we are not looking to pick a fight with you.

We have some interests at stake which are extremely important to us.

Senator ADAMS. Not with me. How about the Iranians?

Ambassador MURPHY. No—I meant that that is the message to the Iranians, not to you, sir. I would never do that.

Senator ADAMS. I don't care. I am not going to be flying over there.

Ambassador MURPHY. Oh, I had no intention of starting any trouble with you.

Senator ADAMS. Good. [Laughter.]

Ambassador MURPHY. This is our best judgment based on the information that is available, that this is not the time to invoke War Powers.

Senator ADAMS. All right. We have a disagreement on that.

Ambassador MURPHY. Yes.

Senator ADAMS. The second point—the allies. All of you have testified and I think your figures, frankly, are low. Our movement of oil out of the Gulf region is relatively small. The Japanese and Western European movement is incredibly heavy. They are dependent on it.

Where are they? If it is so important and it is so vital and there are hostilities, where are the British and the French and the Japanese?

Ambassador MURPHY. I think Mr. Armitage addressed——

Senator ADAMS. I mean their ships. I don't mean where their heads are.

Ambassador MURPHY. British ships are in the Gulf, three of them, a mix of frigates and destroyers.

Senator ADAMS. How many do we have?

Mr. ARMITAGE. We have six inside the Gulf, counting the *Stark*, sir.

Senator ADAMS. All right.

Have they agreed to convoy with you, Mr. Secretary?

Mr. ARMITAGE. No, and we have not asked them to convoy with us.

Senator ADAMS. You have not asked them?

Mr. ARMITAGE. That's correct, Senator.

Senator ADAMS. There is oil on some of them, isn't there?

Mr. ARMITAGE. Oh, I was talking about their war ships.

Senator ADAMS. I know, but it is their oil that is being protected, isn't it?

Mr. ARMITAGE. Some of it is, yes.

Senator ADAMS. What about the Japanese?

Mr. ARMITAGE. Sixty percent of their oil comes from the Gulf. There is some of their oil on those ships.

Senator ADAMS. Do they have any ships in there?

Mr. ARMITAGE. No, they do not.

Senator ADAMS. Have they agreed to convoy?

Mr. ARMITAGE. No, they have not, will not, and cannot.

Senator ADAMS. I didn't think they could.

Mr. ARMITAGE. Sir, you asked, and they can't do it.

Senator ADAMS. That's right. Can they?

Mr. ARMITAGE. They cannot convoy. They do not have the facilities, the ability to do this, in purely nautical terms.

Senator ADAMS. That's right. They do not have it.

Are they willing to pay for our doing it?

Ambassador MURPHY. Well, again, this has not been formally asked, Senator, but Prime Minister Nakasone made a statement, I think yesterday in Tokyo, reacting to the developments in the Gulf, that Japan stood ready to study any request made of it.

So I think we have an open door to discuss the whole range of possibilities.

But escorting in the Gulf, as is my understanding, whether it is indeed a nautical inability, there is a constitutional inability imposed by the Japanese constitution.

Senator ADAMS. That is correct. What I want to know is it is Japanese oil and Western European oil. We are putting our flag on it and our ships in there. And you deny that it is hostilities.

What this committee is interested in is policy, and the policy I want you to justify for me is in terms of the United States self-interest vis-a-vis its allies and the risk that we are undertaking.

I know you are not running the entire government. You threw in a new acronym for me here, and it wasn't CINCPAC. It was the Command Authority.

Mr. ARMITAGE. The National Command Authority.

Senator ADAMS. It isn't CINCPAC, then.

All right.

I just want your best foot forward in this because at 600 miles an hour, a mile per second, top of the Gulf, no carriers, no land base, you explain to me, whoever—I really guess I'm looking at you, Admiral—who the hell is going to scramble and arrive before you let go with an air-to-surface missile if you're up there with Kuwaiti tankers?

Admiral MUSTIN. Well, I believe you made a quite major, but inadvertent, error in math. That's about a mile a minute, not a mile a second.

Senator ADAMS. All right, then. We'll take a mile a minute.

Admiral MUSTIN. If airplanes come now at our ships——

Mr. ARMITAGE. It's 10 miles a minute.

Senator BOSCHWITZ. That's right. You both made a mistake.

Admiral MUSTIN. Well, that shows my math is not so good either.

Senator **Adams**. Let's just put it this way. They go a long way in a very short period of time, and you are a lot farther away.

Admiral **Mustin**. If we see the aircraft in hostile attack profiles, as determined by the captain of the vessel, he has the authority to shoot that aircraft down and he'll do it.

Senator **Adams**. Admiral, look, just explain to me. We all know the Gulf. You are sitting at the top of that Gulf with active hostilities, planes flying both ways every day. We know how tiny the Gulf is, and that all three countries come together there. The policy has picked the country it supports and opposes. They're taking off, and you're sitting up there. You can't put air cover in there unless you fly it continually.

Admiral **Mustin**. Senator, if I understand your question to me, you are asking me if in my military judgment we are putting ships up there that can adequately defend themselves against air attack.

Senator **Adams**. No. I am asking you whether you are going to put air cover in. We will go to the adequate defense in a minute.

Admiral **Mustin**. If we had the option for air cover, of course we'd want air cover.

Senator **Adams**. You don't have the option, do you?

Admiral **Mustin**. That's being reviewed right now.

Senator **Adams**. I mean, physically, do you have it?

Admiral **Mustin**. No, sir, we do not have it, not now.

But we also, in my judgment and in the judgment of the Joint Chiefs, have put ships in there that can defend themselves adequately, or else we wouldn't put them in there.

Senator **Adams**. I know you wouldn't put them there. But Phalanx was not even operational, was it, so far as we know on those ships?

Admiral **Mustin**. We don't know whether it was or not, sir, and we'll have to wait for the investigation to make that judgment.

Senator **Adams**. Well, this Senator just hopes that we do not pursue this policy without our allies and the others involved.

Thank you, Mr. Chairman.

The **Chairman**. Senator Boschwitz.

Senator **Boschwitz**. Ambassador Murphy and General Armitage, I would like to pursue some aspects of the questions that those Senators have already asked, and one is the possibility of having some bases in Kuwait, for instance, or in Saudi Arabia, or in Bahrain, or Qatar or the Arab Emirates, or through the Gulf Cooperation Council, that lay astride the Persian Gulf.

Incidentally, just for the record, the Persian Gulf is not, as the Senator from the State of Washington states, tiny. It is, as I think you mentioned, sir, [indicating] about 800 miles long.

Mr. **Armitage**. Yes, 780 miles.

Senator **Boschwitz**. And quite wide, up to about 150 miles wide.

Mr. **Armitage**. [Nods affirmatively]

Senator **Boschwitz**. It is not a tiny body of water, though it is quite shallow in certain areas, I believe.

In answering Senator Lugar's question about the possibility of getting air bases so that we could have air cover over our ships and over the tankers, which certainly would be an advantage for our position there, why is that unreasonable?

Secretary Murphy, you said that well, it brings back days of the English presence, and so forth. Certainly they are sophisticated people; you have often represented them to me as being sophisticated people. The absence of the British or the colonial regimes in the Gulf area is now a matter of a number of years. It would seem to me that they would have gotten beyond that and that their basic interests really are at stake here.

Why do we have to have an aircraft carrier sitting outside the Gulf, that is not tiny, as the Senator from Washington would say, but, rather, 800 miles long, which means that you might be 800 miles away from bringing aid, and that is about an hour and a half away by air.

Why should it not be reasonable for us to expect countries that we are assisting, that we are helping, that we are supplying arms to, whose ships we are protecting, indeed even flagging with our own flag, why should they not give us the ability to have bases so that we can protect their ships with air?

Ambassador **Murphy**. It's reasonable, Senator. It is reasonable.

I didn't mean to make a big issue over bases versus access. I just say that "bases" is a loaded word. The operative term is "access."

Senator **Boschwitz**. Access, fine.

Ambassador **Murphy**. Yes—what do we need and where can we get it.

Precisely what we need is a subject that is under discussion now within the administration, to be finally decided by the President and the approaches to other governments, be they in the Gulf or among our allies will follow from that.

But their basic interests, yes, are at stake.

Our understanding with those states in the Gulf, though, if I might recall the history of the last several years, has been that they assume the primary responsibility for their territorial waters. They assume the primary responsibility for their self-defense. We have tried, with a variety of security of assistance programs, with the Gulf states to make that possible. There have been a number of notifications to the Congress on sales of U.S. equipment.

When the individual state could not or felt it could not defend its national interests, the concept in the Gulf was to turn to their fellows in the Gulf Cooperation Council, the second line of defense. If the threat were greater, then they would turn to outsiders, such as ourselves. And that is what Kuwait did, in fact, in December, when it approached us with a request for reflagging.

But our understanding has been, and very clearly on their side, that it was our responsibility to protect our ships in international waterways. They have never assumed that they could cope with that.

These are young states. These are young military forces, still developing, and with limited capabilities.

Now they are growing. Their expertise is certainly improving year by year. But they recognize the limits under which they operate.

Senator **Boschwitz**. Are we seeking to negotiate with them the rights of some access to their airfields for the purpose of providing air cover to the transport of oil in the Persian Gulf?

Ambassador **Murphy**. That would follow the President's decision after he has completed and heard the review from his experts as to what would be needed.

Senator **Boschwitz**. So it may well be that the President makes a decision and that you will go and seek that kind of access.

Ambassador **Murphy**. Yes, it may well be.

Senator **Boschwitz**. Yesterday, at the leadership meeting at the White House, we brought that up. We also brought up something the Senator from Washington alluded to, and that is cost-sharing.

While they may be constitutionally prohibited from sending their ships and may not have the capacity to do so, the Japanese are certainly not constitutionally prohibited, to the best of my knowledge, from sharing some of the costs with the American taxpayers and seeing that there is open transit.

You have noted that the Prime Minister of Japan has opened the door.

Have we talked at all with them about this?

Ambassador **Murphy**. This is in a preliminary stage of our contacts, not only with Japan but with the allies. We have not made a formal request for any specific assistance.

I said in my statement, Senator Boschwitz, that there were a variety of forms of assistance. It could be political and diplomatic—their support at the United Nations, their efforts to convince their friends to cut back on arms supplies to Iran. There are a variety of ways in which these nations can help. Cost sharing is certainly a logical one on that list.

Senator **Boschwitz**. Cost-sharing was certainly mentioned at some length yesterday, and we thought it was a matter of considerable importance. Votes and support at the United Nations and certainly restraint with respect to the shipment of arms, too, but the Japanese have not been involved in that, would be extremely helpful. But cost-sharing, I think, would make the American people somewhat more patient with protecting other people's oil.

What about the Gulf Cooperation states, those small states, plus the Saudis and the Omanis. They have gotten involved in joint naval exercises there in the Gulf. Are they also participating in the protection of these ships?

I understand that one of the real threats to these ships are small boats, with people bent on suicide, coming up against them.

Are the Gulf Cooperation states participating in this naval protection of these tankers?

Mr. **Armitage**. They are not yet, other than in territorial waters, as Ambassador Murphy indicated, Senator Boschwitz.

Again, the extent of our consultations and requests to the GCC countries will logically flow from the meeting which is going on now as well.

Senator **Boschwitz**. I would hope that we would press them to do that because the Iranians do have many small boats that, and it would be very difficult to spot these small boats, sometimes. The AWACS would not be of much help in that regard.

The Silkworm is a very capable weapon, as I understand it. You said, General, that we don't need aircraft overhead.

With respect to that, however, if we intend to take out some Silkworm sites, we would need it.

Has there been any discussion about responding in the event that the Silkworms are made operational, which I understand are not yet functioning?

In the event that they are made operational and they fire this very capable weapon at one of our ships in the Persian Gulf, has there been discussion of our attacking those sites, which as Senator Lugar pointed out, would certainly be a serious matter?

Mr. ARMITAGE. There has been a discussion of the full range of options available to the President in the event that the Iranians fire the Silkworm at us, sir.

Senator BOSCHWITZ. It would be my hope that we would not hesitate in that case, in which case perhaps the Senator from Washington is correct. In that event, the War Powers Act may come into play.

When we were talking about the Persian Gulf at earlier times, we often talked about insurance rates and what insurance rates would do to movement of oil in the Gulf.

With all of the attacks that you have delineated, what has happened to insurance rates? They must make the cost of shipping oil from the Gulf quite prohibitive.

Ambassador MURPHY. My understanding is the rates have gone up, Senator. In the course of the war they have not gone up in tremendous spurts, reflecting any single attack.

But the ship owners have had to pay a higher rate ever since 1980 for their cargo ships in the Gulf. This has been particular true over, say, the last 2 years of the war.

Senator BOSCHWITZ. Mr. Chairman, I noted that General Armitage was shaking his head.

I think it bears quite interestingly on whether or not there are such great dangers in the Persian Gulf that the War Powers Act needs to be implemented.

Could you respond on the insurance, please.

Mr. ARMITAGE. I think my point on the insurance was, much to the surprise of many, that it has not risen in dramatic fashion.

Senator BOSCHWITZ. It has not.

Mr. ARMITAGE. I think that is a fair statement, and certainly not in the past several weeks, either.

Ambassador Murphy. No.

I think it is reflective both of a glut of tankers and a glut of oil.

Senator BOSCHWITZ. That is amazing. Thank you.

The CHAIRMAN. Senator Moynihan.

Admiral MUSTIN. Mr. Chairman, if I may correct one point, please.

The CHAIRMAN. Yes, Admiral Mustin.

Admiral MUSTIN. I did not say we don't need air cover. I was responding to a question about whether the ships could defend themselves without air cover, which, in my judgment, they can.

I was not asked whether I thought we needed air cover when within the range of the Silkworm missiles, which is just a very small arc of the entire Gulf, specifically in the Strait of Hormuz.

I would like to have air cover in that case.

The CHAIRMAN. Thank you very much.

Senator BOSCHWITZ. Mr. Armitage said you don't need aircraft overhead.

The **Chairman**. Senator Moynihan.

Senator **Moynihan**. Thank you, Mr. Chairman.

Mr. Chairman, this has been a painful morning because what you see is the deep distrust of the administration that has emerged from the Iran-Contra deception.

Senator Adams mentioned that for 4 years I was vice chairman, with Senator Goldwater as chairman, of the Intelligence Committee. We worked so hard to build a relationship of trust with the intelligence community, the Department of State, and then, of course, it turned out with respect to something so important that we were continually lied to.

Robert McFarlane testified in public the other day that the "cycle of deception deepened." And here you are, it seems to me, open and above-board and in pursuit of a policy that every President of the United States since Harry S. Truman would have endorsed, but you must accept the cost of having deceived the Congress. And we must try to get beyond that.

And we will.

Let me ask you two things. One is about Kuwait. Kuwait does not have the highest per capita income in the world, but just about.

What did they think they were doing, asking the Soviets into the Gulf? Did we think that was funny? I'm sure you did not, Ambassador. I know you didn't.

Ambassador **Murphy**. In no sense, Senator.

Senator **Moynihan**. Cute?

Ambassador **Murphy**. No.

Senator **Moynihan**. Clever, Middle Eastern guile?

Ambassador **Murphy**. Balancing the super powers I think has been an element in Kuwaiti policy over the years.

But let me go back to your first point.

It is painful to have credibility questioned, and I don't——

Senator **Moynihan**. Mr. Ambassador, no one is questioning yours.

Ambassador **Murphy**. I did not come here to personally apologize or get into a fight with anyone, Senator. But there is the question of credibility that faces us this morning in this atmosphere, or perhaps it is only a question of judgment calls, as to whether War Powers is applicable or not. I just came back from 10 days of touring the Gulf states, and I can assure you that that question of credibility is reflected out there in those states. What in the Lord's name did we think we were doing in supplying arms to Iran was the question.

Now, they, too, want to put it behind them, and without exception, and I include not only the six Gulf Cooperation Council states but Iraq. They make the point that they want to have, because they think it is in the best interest of their countries, good relations with the United States. They cannot help but have questions about our commitment and our consistency and made the point very strongly to me that we welcome what you are doing in responding to the Kuwaiti request, but, for heaven's sake, stay the course because the worst thing you could do is get into something that you are not ready to see through.

Senator **Moynihan**. Right.

Ambassador **Murphy**. So that same question arises in the area.

Senator MOYNIHAN. Could I ask you for a damage assessment? How much have the Soviets gained?

For example, Kuwait, I believe, is President of the Islamic Conference and has a convening role in that respect.

Ambassador MURPHY. Yes.

Senator MOYNIHAN. Are they beginning to shift their position on Afghanistan?

Ambassador MURPHY. The Kuwaitis?

Senator MOYNIHAN. Yes.

Ambassador MURPHY. Well, I'd say in general of the Kuwaitis that they were the first Gulf state to enter into diplomatic relations with the Soviet Union. This goes back 15 or 16 years ago.

The next such openings were in the Emirates and in Oman within the past 2 years.

They have had, as a policy, that there should be some balance between the super powers as they see it from Kuwait, and they have championed that.

I don't think there are any illusions in any of those states about long-term Soviet gains and interests in the Gulf. They know what the Soviets are looking for and they are very cautious.

I don't expect them to be rushing to open the dry docks, the ports, the facilities, to the Soviet fleet.

But what have the Soviets done? It's not just in the Gulf. It's in the area west of there, in the Arab-Israel conflict. They have been diplomatically active there. In the Gulf War, they have announced a grand policy of the Indian Ocean Zone of Peace, an international conference on this and that.

We say look, right now there is a test on in New York. Are you ready to have a Soviet Operation Staunch? Wouldn't that be a significant contribution to ending the war, because all of the things that are bedeviling you and us are coming out of that war.

If we can get that war to an end by whatever means, we won't have these problems, we won't have these questions that we must debate. And we welcome the debate.

But on the Soviet role, there are no illusions in the Gulf States. They have had a very long-standing Western tie and a very strong tie with the United States over the past couple of decades.

Senator MOYNIHAN. But, sir, it can not have given you any comfort at all. They have that tie. We have protected them. We have let those billionaires grow to be multibillionaires, and the minute it is to their convenience, they let the Soviets in.

Ambassador MURPHY. Well, the moment of that decision was not coincidental. It was November 1986.

Senator MOYNIHAN. It was not coincidental that the Kuwaitis asked the Soviets in as it came to be known through the world that we had been shipping arms to Iran?

Ambassador MURPHY. It's got to have been a factor.

Senator MOYNIHAN. That could, in the end, be the largest geopolitical loss of the whole Iran operation, could it not?

Ambassador MURPHY. As I say, the instinct in the area, of everyone we have talked to, is to put that behind and build, to maintain close ties, and the expectation is that the United States will play a more active role than we have in their eyes played to end the war.

Senator **Moynihan**. I'm sure that is so. But once you've asked the Soviets in, they don't leave very easily. There is that old line of G.K. Chesterton: "Once you've paid the Dane geld, you never get rid of the Dane. '

Mr. Chairman, I think Ambassasdor Murphy has said something very profound. It was the aftermath of the revelation of the deceptive, dishonest policy of shipping arms to Iran that some persons in the administration carried out, that Kuwait turned to the Soviet Union for protection.

Ambassador **Murphy**. But I say that that is consistent with Kuwaiti attitudes toward balancing between the super powers, a long standing policy.

Senator **Moynihan**. But you also said, sir, very honestly and very openly, as you have always been before this committee or any other place I have encountered your extraordinary public service, that it was not a coincidence that this took place in November 1986.

Ambassador **Murphy**. Right, sir.

Senator **Moynihan**. I'm sorry that is so.

Thank you, Mr. Ambassador.

Thank you, Mr. Chairman.

The **Chairman**. Senator Pressler.

Senator **Pressler**. First of all, let me say, speaking as one Senator, that I feel very strongly that the War Powers Act does not apply in this case. I would be in agreement with the administration.

I hope that the Iran-Contra affair thing does not overshadow our analysis of this. I, too, feel there has been a lot of deception in that affair.

The fact of the matter is I don't think the administration has engaged in any deception in this area. There were 37 people who died of what apparently was an accident. But prior to that, nobody was really paying much attention to the situation in the Persian Gulf. It is good that our attention has been drawn to it.

I guess I would frame my question just for the record on the War Powers Act, and would emphasize that my reading of it is clearly that it would not apply yet in this instance, unless you would find that the attack on the *Stark* was deliberate.

Let me just ask if we indeed were to say that the War Powers Act applied in this case, the same act would have to apply in probably seven or eight other areas of the world presently, would it not?

Mr. **Matheson**. There certainly have been a number of occasions, not just now but over the past 5, 10, or 15 years, where there have been isolated attacks, sometimes terrorist attacks, on member of U.S. Armed Forces, and we have not treated those as War Powers situations, assuming the hostilities did not continue.

So, you are right, Senator, that if we treated it here as invoking War Powers, we would have a great many such situations.

Senator **Pressler**. Many years ago, when I first finished law school, I spent about a year writing legal memoranda on questions like this, and I must say that I doubt anybody ever read them. But from my reading of that act, clearly this is not a pertinent situation, and I think around Washington, a lot of people are saying that it does apply.

I would just like to make it clear that this Senator, at least, is very much in agreement that it does not.

Let me ask this question about this business of how strategically important the Persian Gulf is and just exactly what it is we are trying to accomplish there.

I know we already have gone through that a little bit, but we say we are trying to keep the Iranian presence down and we are trying to keep the Russians from expanding there.

Yet we do not get that much oil out of there. Maybe strategically at some future time we would want to.

Of course, every area of the world is strategically important to us. But what are the one or two unique points that make this important for the American people? What do we get out of it?

Ambassador **Murphy**. I think on oil, Senator, I would say certainly the prospect of disruption of oil supplies—and while the statistics show today it's only 5 percent of our total consumption, 15 percent of our total imports, every expert we are hearing from says that is going to rise significantly in the decade ahead. Plus the fact that our allies are so dependent upon it, it is in a very real sense the lifeblood of our alliances.

So we have said that any disruption in an area where some 60 percent of the Free World's oil reserves are found today has profound strategic consequences for the United States.

It is not so much a matter of keeping the Iranian presence down. As the President has said, look, we recognize the fact, we accept the fact of the Iranian Revolution. But don't try to force it on others.

And that is what you are seeing today. The attacks of the last couple of years, particularly in Kuwait, on the oil installations, are sabotage attacks, as also in Lebanon, as God knows.

Senator **Pressler**. Many of us have to sell this policy, so to speak, back home. If we support a military presence in the Persian Gulf, we have to give sort of a capsule, two-minute statement to a room full of constituents as to why we are spending the money there or exactly what it is that they are going to get out of it.

If you were facing a room full of constituents in South Dakota, what would you tell them?

Ambassador **Murphy**. I'd tell them you don't want the Soviets to get a handle on a vital lifeline of the United States and its Free World allies. That is what I think is driving us principally at this point in time.

I would talk about support for long-standing, moderate friends in the Gulf area. But that may not have that much resonance in Dakota.

Senator **Pressler**. That would be a good reason, though.

Ambassador **Murphy**. But it is a fact. That is a fact of our policy.

Senator **Pressler**. The first reason would be a good reason.

Let me ask about this business of Japan.

Under the constitution we imposed upon them, Japan cannot have a blue water navy. But couldn't they help pay? They are getting a lot of oil out of there. Wouldn't there be a way they could legally pay, transfer some payments to help us out?

Ambassador MURPHY. We think there could be. Our discussions just are not at the stage where we say pay. Pay for what, to whom, how, all the details are not worked out.

But Japan's contribution could be financial. It has been diplomatic. It has tried with its own diplomacy to get the war to an end, to open negotiations.

It has been active.

Senator PRESSLER. I want to understand better this business of the flags on the ships.

Now I understand that most of our ships are not under U.S. flag; that is, a lot of commercial U.S. ships are frequently not under a U.S. flag. Is that correct—not in the Persian Gulf?

Ambassador MURPHY. Yes, there are flags of convenience, Senator. Do you mean the use of Panamanian or other such flags?

Senator PRESSLER. But in other parts of the world, except the Persian Gulf, people would rather not have a U.S. flag; generally speaking, isn't that true? They avoid taxes or there is some other benefit.

Ambassador MURPHY. I think it has been an economic issue more than anything else.

Senator PRESSLER. Maybe there are more ships under U.S. flag in the Persian Gulf than there are elsewhere in the world.

Would that be accurate?

Ambassador MURPHY. We have had about four a month, as I understand.

Mr. ARMITAGE. Four or five a month is what we have had plying the Persian Gulf, Senator.

Ambassador MURPHY. That is, fully registered, U.S. flag.

Senator PRESSLER. How many commercial ships are there in the world that fly the U.S. flag?

Mr. ARMITAGE. I'd have to supply that for the record. I just don't know.

Senator PRESSLER. I was told this morning that most of our commercial ships, oil tankers and so forth, don't use the U.S. flag.

Mr. ARMITAGE. I am sure that is true. I will supply for the record the answer to your question.

Senator PRESSLER. OK.

Senator MOYNIHAN. If the Senator would yield for a comment, this might be a good time to pass a law saying if you don't have an American flag, you don't have an American frigate. It might get some of those people back from Liberia and Panama.

Senator PRESSLER. Maybe. Yes. I was intrigued because I didn't know that this morning. Somebody said to me that you know, our ships don't fly under a U.S. flag. Well, golly, Kuwaiti ships do. So our flag is flying somewhere.

If you could supply that, I would like to know how many ships, how many commercial ships fly the U.S. flag, and how many of our own ships fly it. I am told that it is almost none. As a matter of fact, it may be none, someone told me this morning. That startled me, because I thought our flag was flying all around on the oceans.

Mr. ARMITAGE. We will supply that, sir.

[The information referred to follows:]

U.S. Flag Presence

Number of foreign flag merchant ships under U.S. parent companies (as of 1 Apr 87) is about 48 percent of the total owned. Remaining 52 percent of U.S. owned ships fly the U.S. flag.

In the last 18 months to 2 years there are 2 to 3 MSC charters per month. Two percent of the total U.S. owned tanker fleet operating in the Persian Gulf are U.S. flagged. Fleet size is about 126 tankers, which are U.S. owned and operating in the Persian Gulf.

Ambassador **Murphy**. Senator, if I could just note on that one footnote, there has been some question of why we weren't urging de-mothballing or putting into service, in that run, American tankers.

I would just like to make clear for the record that we have proposed use of American tankers, and that is under study by the Kuwaitis.

Senator **Pressler**. But most of the American tankers that would go into the Persian Gulf previously would not have used the U.S. flag, though, would they?

Ambassador **Murphy**. That's correct, sir.

Senator **Pressler**. Are they now using it?

Ambassador **Murphy**. No.

Senator **Pressler**. Probably not, because it would be a draw.

That is an intriguing question, and if you could, add to your information how many of our tankers that are U.S.-owned and go into the Persian Gulf use the U.S. flag. I guess they don't use it because maybe it attracts too much attention or is more expensive.

Senator **Moynihan**. Well, they have to pay wages.

Senator **Pressler**. They have to pay higher wages, probably. There are all sorts of reasons.

Senator **Adams**. Reflagging is a big issue that we won't talk about here today.

Senator **Pressler**. I know you are an expert on it, so I will listen to you later. But this morning, when I learned that, that surprised me.

Let me just give credit, if I could, and I will put it in the form of a question.

Great Britain has three naval vessels there and that is a very responsible thing. It is an ally and it is there and has been there.

Is that not true?

Ambassador **Murphy**. That's right, Senator.

They had two—a mix—a frigate, a destroyer, depending on the moment, up until I guess earlier this year, when they put a third in. That flotilla, I think they call it the "Armilla," has been there since 1980.

Our Middle East force has been there, as Senator Pell said, since 1949. And if you recall, historically, the British announced a policy of withdrawal from East of Suez back in the early 1970s, which gave an even more prominent role to the U.S. fleet since that day.

Senator **Pressler**. Just one more question.

What about our good friends, the French? Are they giving us the usual help?

Mr. **Armitage**. Well, they have a frigate in the Gulf, and the discussions with the French on this have been very informal.

Senator **Pressler**. They have had one. It is not in there now, is it?

Mr. **Armitage**. Yes. It is in the Gulf of Oman now, one frigate.

Senator **Pressler**. But it's not in the Persian Gulf. Inside the Strait of Hormuz?

Mr. **Armitage**. I think it's right outside the Strait.

Senator **Pressler**. No, I don't think it is.

Mr. **Armitage**. We will supply that. I think it is right outside the Strait.

[The information referred to follows:]

French Presence

Disposition of the French presence in the region.

Four or five ships, not all combatants, operating out of Djibouti. Of those, one is operating in the Gulf of Oman/Strait of Hormuz area.

The **Chairman**. Thank you.

There is a roll call vote going on on the Senate floor, so in a moment, I will have to recess the committee. We will have another round with those who wish to come back for that.

But I know that Senator Kerry must catch an airplane and he asked if he could ask one question at this time.

Senator **Kerry**. I would just like to ask one quick question, if I can, and I thank the Chair for his indulgence.

Mr. Secretary, in your opening statement, I heard you say that we cannot afford to let Iraq lose this war.

Is that accurate?

Mr. **Armitage**. Yes.

Senator **Kerry**. You said that?

Mr. **Armitage**. Yes.

Senator **Kerry**. Does that indicate a United States tilt toward Iraq?

Mr. **Armitage**. No, it does not. I think it indicates reality.

As I said, I was making the point in that statement that the policy is neither victor nor vanquished. We want no one to win. We want a return to the status quo ante, and a negotiated settlement.

One thing was for sure: if Iraq lost, the possibilities of Islamic fundamentalism spreading instability, as I said, from Marrakech to Bangladesh was very real. We could not afford that.

Senator **Kerry**. Assuming we accept that as a legitimate goal, assuming we do—and this is my last question—what are we prepared to do to prevent an Iraqi loss to the Iranians? What does our policy say we are going to do? What steps?

Ambassador **Murphy**. Well, really, more of the same in terms of this Operation Staunch, Senator.

We have led, with our friends and allies, as I mentioned, in trying to squeeze down and cut off, if at all possible, sources of arms reaching Iran because Iran is the party that has not accepted a call for ceasefire or any mediation.

So, on the diplomatic-political side, what are we prepared to do? It is to increase and intensify our Operation Staunch, designed to keep arms from reaching Iran, because Iran has rejected all offers of mediation and calls for ceasefire.

Beyond that, we are working and taking the leadership role at the Security Council today. They are in the midst of their discussions, trying to develop a resolution which would have more impact in terms of calling for enforcement measures than previous resolutions up in New York did over the last couple of years; galvanizing an international effort, which would require a greater input from the Soviets than has been the case today. Soviet arms, or East European arms, or North Korean arms have been critical to the Iranian war effort.

So it is a mix of instruments that we are working with.

Senator KERRY [presiding]. Well, I appreciate the mix.

This begs a lot of other questions, obviously, about what might, in fact, really happen, particularly with the ships in the region in terms of the prevention of that loss. We cannot do that now.

But I appreciate your indulgence. Perhaps, sometime later we might discuss this.

Ambassador MURPHY. Absolutely.

Senator KERRY. I have been asked by the chairman to recess the committee briefly until such time as he returns to recommence another round.

Thank you very much.

We stand in recess.

[A brief recess was taken.]

The CHAIRMAN [presiding]. The Committee on Foreign Relations will resume its session.

I am glad to recognize Senator McConnell at this point.

Senator MCCONNELL. Thank you, Mr. Chairman.

I want to pursue further the line of questioning that Senator Moynihan began earlier, and that is the question of the Soviet aspirations in the Middle East and their current level of influence.

Secretary Murphy, I think it might be helpful if you would give us a quick overview, a quick history, shall I say, of the Soviet influence in the area, starting with the departure from Egypt up to the present, with the normalization of relations with Oman and the UAE and the efforts apparently underway in Israel and Saudi Arabia.

Ambassador MURPHY. Well, speaking strictly of the Gulf, Senator, is this the Soviet aspirations and efforts in the Gulf?

Senator MCCONNELL. No, not strictly in the Gulf.

Ambassador MURPHY. In the region?

Senator MCCONNELL. Yes.

Ambassador MURPHY. Well, the Soviets suffered a major setback when they were pushed out of Egypt by Anwar Sadat, back, I want to say, in about 1972 or 1973. Before that, they had cut their diplomatic relations with Israel and were very much on the sidelines as a player in the Middle East, other than as being an arms supplier to Syria and Iraq.

Since 1967, they have simply not been a major player in the diplomatic process in the Middle East. They have been a major supplier of weaponry and they have made various overtures over the years to the several governments in the Middle East.

In the Gulf, their first diplomatic opening was with Kuwait, about 15 years ago. Within the last two years, they did establish diplomatic relations with Abu Dhabi and Muscat, Oman. They are very interested and have had a long-standing campaign to get further access to the Gulf governments, the Gulf Cooperation Council governments.

I believe there is pretty high guard maintained on the part of those governments and no illusions about Soviet intentions, as to why they are making friendly noises toward them. But, nonetheless, they have emerged over the last few years as a more friendly power in the eyes of governments, which are strongly tied to the West and whose populations have been deeply suspicious of the Soviets for religious reasons, among others. They consider the Soviet Union atheistic and highly suspect for that reason.

Now, they have hoped, as I say, to get diplomatic relations throughout the peninsula, and they have it in three of the Council states today.

They have moved with Egypt back into more or less normal relationships, but there are some pretty bitter memories in Cairo of Soviet dealings with them up until they were booted out in the early 1970s.

They recently made a very handsome deal with the Egyptians to settle a major military debt that was owed to Moscow, and there was quite a friction-filled debate on that issue over the last several years.

They have moved with the PLO here, just turning around the region briefly, to be the principal outside force encouraging reunification of the PLO. Their ambassador was on-stage at the Palestine National Council Meeting in Algiers about a month ago.

With Israel, they have made some tentative overtures. There have been contacts between Israeli leaders and Soviet political figures, particularly over the last year. We do not consider, and I am certain the Israelis do not consider, that they have yet shown an interest in playing a constructive role in the Middle East, generally, and in the Middle East peace process in particular, because they do not have diplomatic ties with Israel, and there are other questions, such as the situation of Soviet Jewry, on which they have not moved significantly.

But, in the most general sense, we do not feel that they have shown, either to ourselves or to the other players in the region, evidence of a serious desire to play a constructive role.

But they have made gains. My bottom line is that they have made gains in the last few years.

Senator McConnell. Yes, that is my impression.

Mr. Armitage. They are also attempting to use our own inability to supply some of our moderate Arab friends with defensive weapon systems as a hook, and they are offering defensive systems, or what we would consider offensive systems, in many cases, at extraordinarily good, bargain rate prices, Senator.

Senator McConnell. Is our plan for protecting shipping driven by a feeling that we ought to check the Soviets, or are we primarily concerned with keeping the shipping lanes open?

Ambassador Murphy. I would give them equal weight, Senator.

We do have great concerns about their getting enhanced access, influence, and controls, eventually, over Gulf exports—the oil line.

But the other principles of freedom of navigation on a global basis, the commitment of President Carter, reiterated by President Reagan, on the flow of oil through Hormuz, and then our support for states that have been looking to us for help over the decades—these are also very much on our minds.

Senator McConnell. How long have the Soviets had ties to Iraq?

Ambassador Murphy. Certainly since the revolution in Iraq in 1958, perhaps before that. I will check that for the record.

[The information referred to follows:]

Ties to Iraq

Question. How long have the Soviets had ties to Iraq?

Answer. The Soviets established diplomatic relations at the mission level with Iraq in 1944. Relations were broken in 1955, but reestablished in 1958 with the fall of the Iraqi monarchy.

Senator McConnell. What are they currently doing for Iraq?

Ambassador Murphy. They are a principal arms supplier, along with Paris.

Senator McConnell. Getting back to the area of concern this morning, I understand that most of the questions you were asked in our absence to go vote were around the question of whether or not protection comes with the flag. In other words, do you think it is a sufficient deterrent to simply flag the tankers or are we offering military escorts as well?

Mr. Armitage. It is our intention to offer protection through some sort of convoy type arrangement, Senator McConnell.

Senator McConnell. Would you say that again?

Mr. Armitage. It is our intention to offer protection through some sort of convoy arrangement to those reflagged vessels.

Senator McConnell. Whose idea was it to flag the vessels?

Ambassador Murphy. That was a Kuwaiti request.

Senator McConnell. Are the Soviets doing the same thing?

Ambassador Murphy. No, sir.

They have chartered three Soviet-owned tankers, crude carriers, to the Kuwait Oil Co., that will be on the run from Kuwait to Rotterdam. Those are Soviet flags today, one of which hit a mine the other day.

Senator McConnell. Will the Soviets be providing military escorts for their tankers carrying Kuwaiti oil?

Ambassador Murphy. I don't think we know what decisions there are in Moscow on that, Senator. What we know is that a week or so after the first Soviet cargo ships was boarded and forced to go to Bandar Abbas, a Soviet frigate appeared and the frigate has stayed with support units on permanent patrol in the Gulf for the first time in history.

Senator McConnell. Have you or anyone in the administration talked directly with the Soviets recently about this situation and what their intentions are?

Ambassador Murphy. We have talked about the Gulf war with the Soviets; this was when Under Secretary Armacost was in Moscow, about two months back. We have not talked about specifically the reflagging.

Senator McConnell. So there have been no discussions since the *Stark* attack?

Ambassador Murphy. No, not since *Stark*.

Senator McConnell. The New York Times reported, Secretary Murphy, that you were going to be meeting with your Soviet counterpart in June regarding a proposed international peace conference on the Middle East.

My final question is this. On the one hand, we are trying to bring the Soviets into the Middle East in terms of the peace conference and on the other hand, we are trying to keep them out.

What are we trying to do here?

Ambassador **Murphy**. I think those are different interests, Senator, but I do not think they are contradictory. They are related to the situation.

In the peace process, they have sent for some time now a very clear signal. They would expect to be a participant as a super power in the peace process.

We say, well, let's see some constructive behavior if you are going to have a ticket of admission. We suggest that the Soviets have not paid the price yet for that admission to the peace process.

As far as their protection of their tankers moving in the Gulf, their cargoes moving in the Gulf, it is their sovereign right to protect their ships.

We say that we are not interested in a regime which would be a joint Soviet-American or international regime involving the Soviets because this is an area of, primarily, fundamentally, Western interest, vital Western interest, not vital Soviet interest.

So we think this is matter for the Free World to cooperate on. But we are not trying to restrict the Soviet access in terms of protecting their own ships.

The **Chairman**. Thank you.

Senator Sarbanes.

Senator **Sarbanes**. Thank you, Mr. Chairman.

Gentlemen, if I ask a question that has been asked earlier, I hope you will forgive me, but I have been at the Iran-Contra hearings all morning.

I am curious to know what the authority is for reflagging foreign ships. Obviously, once they are under the American flag, we have the obligation to provide them with protection.

Is that correct?

Mr. **Armitage**. Yes.

I think, Senator Sarbanes, that the authority is Title——

Senator **Sarbanes**. Let me come back to that in a second.

I take it the reason to put them under the American flag is that we then incur an obligation to protect them.

Is that correct?

Mr. **Armitage**. Well, as Ambassador Murphy has indicated, the decision to reflag them or to put them under the American flag was one request that came specifically from Kuwait.

But if we were to reflag them and put American flags on them, then we will extend our protection regime to them. I think the feeling in general was that American ships, American flag ships have not been targeted yet in the Gulf and, hopefully, that they will not be.

Senator **Sarbanes**. Where does the authority come from to put ships under the American flag?

Mr. **Armitage**. I think it is section 46 of the United States Code of Shipping, Senator Sarbanes. But I will have to supply that officially for the record.

Mr. **Matheson**. The Department of Transportation has that authority pursuant to their statutes. We would have to provide you for the record the exact citations.

[The information referred to follows:]

Reflagging Authority

Authority to reflag comes under Title 46 U.S.C. (Shipping).

The granting of U.S. documentation to vessels is governed by Chapter 121 to Title 46 of the U.S. Code. Specifically, 46 U.S.C. § 12103 provides that the Secretary of Transportation "shall issue a certificate of documentation" upon application by the owner of a vessel eligible for documentation, and § 12104 provides that such a certificate is "conclusive evidence of nationality for international purposes". The standards of eligibility are prescribed in § 12102; with respect to a vessel owned by a corporation, that corporation must be:

"* * * a corporation established under the laws of the United States or of a State, whose president or other chief executive officer and chairman of its board of directors are citizens of the United States and no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum * * * ."

Senator **Sarbanes**. Well, what is your view? I mean, could you take all the ships in the world and reflag them under the American flag, and then provide U.S. protection for all of them?

How do we do that? In effect what is happening here is that you are expanding our obligations. The Secretary's assertion is if you put the U.S. flag on these ships, perhaps nothing will happen to them. But the corollary to that is if something does happen to them, we will have to protect them.

Now, if you think about this for a minute, you could place the American flag on an innumerable number of ships and, therefore, expand drastically our obligation to provide military protection.

Ambassador **Murphy**. One comment, Senator. There was a specific request to reflag 11 Kuwaiti tankers. That is 11 out of either 22 or 25 or so in the Kuwaiti tanker fleet. There has been no other request.

Any other request would be considered on a case-by-case basis.

We did not go after them to stimulate a request. They came to us through our procedures under the Department of Transportation, that they are going through.

We have three requirements: ownership, safety and pollution standards, and crew certification.

But, yes, any nation in the world could at any time ask, I suppose, for reflagging. The fact is that they do not. They have not.

There is no indication of interest from others.

Mr. **Armitage**. And we are not bound to respond affirmatively, Senator Sarbanes.

Senator **Sarbanes**. Is this the first time that reflagging or placing a ship under the American flag has been sought in order to gain military protection?

Ambassador **Murphy**. We will supply that for the record, Senator. I am not familiar with that motivation.

[The information referred to follows:]

Question. Is this the first time that reflagging or placing a ship under the American flag has been sought, in order to gain military protection?

Answer. In the five years since the U.S. Coast Guard formalized reflagging requirements, more than 50 foreign bulk carriers have transferred to the U.S. flag. We cannot address the motivations of the specific owners for reflagging.

Most of our conversation earlier in the hearing was that most have tended to run away from the American flag for financial reasons, that it is just so expensive with our taxation, our salaries for the crews, et cetera.

Senator **Sarbanes**. Is it your view that once it is placed under the American flag, it is to receive American military protection?

Ambassador **Murphy**. It is certainly entitled to it. It depends on the resources available what level of protection is provided.

Senator **Sarbanes**. On what basis would you draw the line if other nations also shipping in the Persian Gulf were to request the American flag and, therefore, get American military protection?

The real question is how can you broaden our military obligations in this way, through a provision of the law which I would assume was put there for purposes totally unrelated to military protection? It appears that provision is now being used to significantly broaden our military obligation, potentially in an unlimited fashion.

Ambassador **Murphy**. I think the only reply that I could make, Senator, is that there is not a sea-swell, not a surge of requests for our flagging. So it is a speculative question. The answer will have to be on a case-by-case basis and be heavily influenced by what we can offer in return in terms of protection.

There is simply a limit to what we can undertake.

This comes against the background last fall of the targeting, the specific targeting of Kuwaiti shipping, considerably more, statistically, than the other ships in the Gulf, in the Gulf trade—Kuwaiti-associated shipping, not necessarily Kuwaiti flag. That has been one of the big differences between the Iranian attacks and the Iraqi attacks. The Iranians have attacked indiscriminately ships in the Kuwaiti trade.

Senator **Sarbanes**. But I perceive that the administration is establishing a precedent in using a provision of law with respect to flagging, that had nothing to do with the responsibility to provide U.S.-flag vessels with military protection, for just that purpose.

Now, as I understand your legal position—and I take it you are going to submit materials to us—you see nothing inhibiting you from extending this protection without limit.

If you meet all the other requirements that you mentioned—ownership, safety—none of which has anything to do with extending the military obligation that we are being called upon to undertake——

Ambassador **Murphy**. Well, ownership brings its burdens, of course, to move those ships to an American corporation, in terms of taxation, right of the U.S. Government to mobilize those ships in a national emergency, crewing, all of that. This is not done lightly and has never been done lightly by any country.

Mr. **Armitage**. Another reason it is not done lightly—and I do know this much, Senator Sarbanes, is those ships, once reflagged then become part of our mobilization base and they can be called forward by us to be used as we need them if circumstances so dictate.

Senator **Sarbanes**. Well, are they going to have to meet all the requirements that would apply to U.S. flag vessels?

Ambassador **Murphy**. My understanding is since they are not going to be in the U.S. coastal trade, not coming to U.S. ports, they do not have to meet—and this is not a special exception for this group of 11 tankers—they do not have to meet all of the normal safety and pollution standards of the Coast Guard. They have been granted a National Defense Waiver by the Department of Defense for one year to come into full compliance, and up to 2 years for those discrepancies that require drydocking to fix.

Mr. **Armitage**. However, they have a year to bring their present standards into consonance with U.S. standards, which are much tougher than the international standards for shipping, sir.

Senator **Sarbanes**. Do you think that President Roosevelt could have put the American flag on British ships before World War II and then provided American naval escort for them?

Ambassador **Murphy**. I don't have a quick answer to that, Senator.

We did provide some escort, I believe, in the early 1940s.

Senator **Sarbanes**. Under very limited circumstances, was it not?

Ambassador **Murphy**. Yes, indeed.

The **Chairman**. I remember being part of it.

Senator **Sarbanes**. I take it it is your view that you do not have to obtain any Congressional approval in order to do this?

Ambassador **Murphy**. No. But, as the President has directed, there is going to be full congressional consultation. It is not a question of requesting approval.

Senator **Sarbanes**. So it is your view that you can flag vessels without limit and by doing that, extend the American military commitment?

Ambassador **Murphy**. Well, their access to our flag is, again, not exclusively Kuwaiti. As we say, other nations at other times—and perhaps we can supply something for the record on that, examples of reflagging.

[The information referred to follows:]

Question. So it is your view that you can flag vessels sort of without limit and by doing that, extend the American military undertaking?

Answer. Registry of foreign flag vessels in the U.S. takes place in accordance with a formalized procedure managed by the U.S. Coast Guard. While anyone can apply to reflag, the stringency of U.S. regulations in fact limit those capable of obtaining the U.S. flag. More than 50 bulk vessels have been reflagged in the U.S since 1981. Once they become U.S. vessels, they are entitled to U.S. Navy protection; however, whether or not that protection is afforded is a U.S. Navy decision, made on the basis of circumstances and availability of assets.

Ambassador **Murphy**. Once they become American-owned and meet these other criteria, they would be entitled to protection. What protection can be available depends on our resources.

So, it is why we say case-by-case.

Senator **Sarbanes**. Mr. Secretary, my point is the administration is asserting the right to drastically extend the American military commitment without obtaining Congressional approval for doing so.

You, in effect, are going to make an administrative decision to place the American flag on these vessels—and potentially many, many other vessels as well—and thereby impose on the military the obligation of protecting them.

Ambassador **Murphy**. As I commented on the law, it is the right of another country to come to us and ask for reflagging.

Now, if it is a question of altering the law, we are certainly not asking for a violation of the law.

Senator **Sarbanes**. When was that requested by another country for the purpose of extending the American military obligation?

Ambassador **Murphy**. I will supply that for the record, sir.

Senator **Sarbanes**. You cannot think of an instance off-hand?

Ambassador **Murphy**. I cannot.

[The information referred to follows:]

Question. When was that done by another country for the purpose of extending the American military obligation?

Answer. As we have stated earlier, more than 50 foreign bulk vessels have been reflagged in the U.S. since 1981. We do not know the motives of the owners for the reflagging.

Senator **Sarbanes**. As far as you know at the moment, this is the first instance. Is that correct?

Ambassador **Murphy**. Yes. But I would feel safer coming back to you soon on this, Senator. Just because I don't know it does not mean that others do not have it on the top of their minds.

Senator **Sarbanes**. My time is up.

Thank you, Mr. Chairman.

The **Chairman**. Thank you, Senator Sarbanes.

I have several questions that I would like to run through for the record.

First, Admiral, when do you expect that the Silkworm facility that the Iranians are building at the Straits of Hormuz will be operational?

Admiral **Mustin**. I cannot answer that in open session, Mr. Chairman.

Mr. **Armitage**. We will have to provide it.

Admiral **Mustin**. We will provide it for the record.

[The information referred to follows:]

SILKWORM FACILITY

[Deleted.]

The **Chairman**. Is it a question of weeks or months?

Admiral **Mustin**. I don't think that I can discuss that.

The **Chairman**. All right.

Admiral, I am reading now from a press story. Is it correct that a frigate similar to *Stark* was said to fail tests against missile attack. "A frigate of the same class as the U.S.S. *Stark* failed a test last week to defend itself against sea-skimming missiles," such as the one that damaged the *Stark* on May 17 and killed 37 sailors.

Is that a correct story?

Admiral **Mustin**. That is not correct.

The **Chairman**. It is not correct?

Admiral **Mustin**. No, sir.

The **Chairman**. Thank you.

Admiral, what would be your view. Do you think our sailors in the Persian Gulf think that imminent involvement in hostilities is clearly indicated?

Admiral MUSTIN. I cannot speak for the sailors in the Persian Gulf, Senator.

As you know, when you are a bystander to a shooting war, that is a dangerous situation. That is different from having imminent hostilities involving the United States. The *Lusitania* was such a bystander and the *Liberty* was such a bystander, as you are well aware, and now the *Stark*.

The CHAIRMAN. But maybe the viewpoint would be a little different to a sailor in the Persian Gulf than it would be to us around this table.

Admiral MUSTIN. That could quite possibly be.

But we are talking about a dangerous situation, and we are in dangerous situations at sea, whether or not there is hostile fire.

The CHAIRMAN. That is correct.

Although the administration declines to admit that imminent hostilities are clearly indicated in the Gulf, there seems to be a pattern emerging here that implies more direct United States involvement in the Gulf war. A decision to flag the Kuwaiti tankers, which have been targets of Iranians in the past year, the concern about the deployment of the Silkworm missiles, and the statement this morning, Mr. Armitage, that we cannot afford to let Iraq win the war, would seem to indicate to me a certain tilt toward Iraq.

Would that be correct, or do we still have an absolutely neutral posture?

Ambassador MURPHY. Senator, if I may, we remain neutral in the war. We are not supplying arms to either party. We are working to the best of our ability in the diplomatic field to bring that war to an end, and with the territorial integrity, with the sovereignty of Iraq and Iran intact.

We are not tilting. We are not taking sides. But the appearance of taking sides I think came from our launching over three years ago of Operation Staunch. Why were we denying arms or trying to deny arms to Iran? It was very simply that we decided it was one of the best incentives to get the Iranian authorities to move to the negotiations, to move through a ceasefire to negotiations, by constricting their ability to make war.

Now, Operation Staunch has not been a complete success. We could not expect it to be, given the international black market and the desire of a number of countries to sell arms to that country.

But we think it has made a contribution. It has made war more difficult to pursue for Tehran.

But it has not been a tilt.

Mr. ARMITAGE. The fact is, as Dick had indicated earlier, Mr. Chairman, that it has been Iran that has refused to ever come to the table or accept any of the many conditions that Iraq has already accepted, to talk about a negotiated settlement to the end of the war.

The CHAIRMAN. But if you feel that we cannot afford to let Iran win the war——

Mr. ARMITAGE. I feel that Western interests would be very severely harmed if Iraq lost the war. Certainly, the instability in the Gulf, to which I have already spoken, would be dramatically increased. I think the problems for Israel would be enormous.

There have been talks, we understand, between Kuwait and some European countries for chartering their vessels in the Kuwaiti trade. But, as far as I know, there are no new decisions, besides the agreement with the Soviets to go for the three Soviet cargoes, the tankers, and to request our reflagging of their 11 tankers.

The CHAIRMAN. Have we asked any of the other Gulf nations for their help or involvement in air and naval operations?

Ambassador MURPHY. Not as of yet, Mr. Chairman, for reasons Mr. Armitage stated.

We want to be precise. We want to know exactly what the needs would be and make an appropriate request to them.

The CHAIRMAN. And it would be much less expensive for us and more practical if we could have land facilities, rather than having to depend on the carriers, which would be at risk and quite far away.

Would that not be correct?

Mr. ARMITAGE. Yes, sir. It would ease the burden.

The CHAIRMAN. What are the understandings or agreements with Kuwait concerning the protection of their 11 ships?

Have we made any commitments yet to the Kuwaitis with regard to their security, the security of their vessels?

Ambassador MURPHY. Yes. The President agreed to protect their 11 tankers as requested.

The CHAIRMAN. Thank you.

I thank you for your openness and frankness in being here.

As you can see, there are two main areas of concern on this end of the avenue, Pennsylvania Avenue. One is the question of the War Powers Act and when that should be involved. The essential point to remember here is not the question of distrusting the briefing process but if we were to get into the War Powers Act, it means that Congress has a role in the disposition of the forces and withdrawing them, if necessary, which it does not have under any briefing procedures.

And you can see the very real concern of all of us, or of most of us, to the question of putting these vessels, wrapping the American flag around them, and whether that really is a good idea or not.

These I think are the two essential problems that you have discussed very openly and very forthrightly for the last several hours, and I thank you for being here.

This meeting is adjourned.

[Whereupon, at 12:37 p.m., the committee adjourned.]

U.S. INVOLVEMENT IN HOSTILITIES IN THE PERSIAN GULF

TUESDAY, JUNE 16, 1987

U.S. Senate,
Committee on Foreign Relations,
Washington, DC.

The committee met at 10:02 a.m., in room SD-419, Dirksen Senate Office Building, Hon. Claiborne Pell (chairman of the committee) presiding.

Present: Senators Pell, Sarbanes, Cranston, Kerry, Sanford, Adams, Helms, Kassebaum, Boschwitz, Pressler, Trible, and Evans.

The Chairman. The Committee on Foreign Relations will come to order.

We are starting promptly because we have with us Congressman Charles Bennett, chairman of the Seapower Subcommittee of the House Armed Services Committee, who has another commitment very shortly. So I will postpone my opening statement until Congressman Bennett has made his statement. Then I know he wants to be excused so as to move over to the House.

STATEMENT OF HON. CHARLES E. BENNETT, A U.S. REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. Bennett. Thank you very much.

I appreciate this opportunity to appear before your honorable committee.

My thinking about the U.S. flagging of the Kuwaiti shipping is similar, if not identical, with that of Senator Pell, and is that reflagging is not a wise course of action to take at this time.

I introduced this legislation in the House of Representatives, a bill almost identical to your bill, S. 1327, which I hope will help us to reverse the course before it is too late.

We, of course, have the right to keep the sealanes open, and we have exercised that right ever since the days of the Barbary pirates.

As chairman of the House Armed Services Subcommittee on Seapower, I have helped to fight for a strong 600-ship Navy. I would want to see that Navy used to protect U.S. interests anywhere.

But this reflagging of Kuwaiti tankers does not add to our power to keep the sealanes open and serves no good purpose.

What does it change?

The change is that we would now have a U.S. flag out there as a target, allowing an enemy to control our national destiny. The names of the tankers would be Americanized from their original

Arabic names, to *Ocean City, Chesapeake City, Gas Queen,* and so forth. They are still owned by Kuwaitis, though on an American front and corporation basis. If one of these "American" tankers or their Navy escorts were hit by an Iranian missile or even by a mine, or shots from an unmarked fast patrol boat, it would make it almost impossible to prevent a large outcry in this country for revenge, for a military response, that might cause us to enter an undesired war with Iran.

The President apparently reasons that the Iranians would not fire at our ships or tankers because to do so would be insane. But driving a truck bomb into the Beirut Marine barracks was also insane, and Defense Secretary Weinberger told our Armed Forces Committee last week that the Iranian leadership was "a bunch of lunatics"—and I am quoting precisely from him—and it would probably be only a short time before our ships would be hit.

The purpose of this policy seems to be to help the administration recover from the disgrace of supplying Iran with missiles in exchange for hostages. It seems to be an attempt to bolster the President's credibility. But it might seriously harm America's credibility.

How would we look if our ships were fired upon and we did not belligerently respond?

This policy was simply not well thought out, and it should be withdrawn at this time in the face of almost universal congressional and allied skepticism.

What we need is an international cooperative effort. The best vehicle for that, of course, would be the United Nations. I know the United Nations has weaknesses, but if you have a weak child, you do not abandon the child. Instead, you work with that child and help to give it strength through proper performance.

It is also vitally important that we start cooperating with the Soviet Union in those areas where we have parallel interests. We can do so here, through the auspices of the U.N. or bilaterally, if that becomes necessary.

We can show the world that the United States stands for peace, for freedom, and for international cooperation.

I hope the committee endorses the bill introduced by Senator Pell and cojoined by myself on the House side. Reflagging the Kuwaiti ships is an invitation to disaster. It gives our country no new power. It fails to move in the direction of peace. It may begin an unwanted war.

Clearly, reflagging the ships is a mistake.

That is the end of my statement.

[The prepared statement of Mr. Bennett may be found in the appendix:]

The CHAIRMAN. Thank you very much.

I wish all statements were that pungent and that brief.

The obvious question comes to one's mind as to how you would see the Soviet interests in the gulf and do you see any conflict of interest there, or do we both have the same interest in keeping the gulf open?

Mr. BENNETT. It would seem to me that the Soviet interests and our own are fairly parallel. And it is to be expected, since they, I do not think, want to start a war there, that if a method by which we could cooperate could be worked out—and it does not seem to me to be very complicated—if we both eschewed the idea of putting flags on Kuwaiti ships, that would be one way to do it. That would show a cooperation and interest in international peace, and that is what I would anticipate would probably occur.

The CHAIRMAN. I remember being at the San Francisco Conference on the Secretariat many years ago, when we created the United Nations, and we worked for 3 months on articles 43, 44, and 45 of the charter, the military enforcement arrangements portion. If ever there was a situation tailor made for the use of the charter at this time, it would be right now, when you have the combatant vessels of four of the five permanent members of the Security Council—the United States, Great Britain, France, and the Soviet Union—there, all with the same interest. To my mind, this would be an ideal time to bring into being something that was envisaged many, many years ago and has never come into being yet.

Mr. BENNETT. I certainly agree.

The CHAIRMAN. Thank you.

Senator Cranston, do you have any questions for Congressman Bennett?

Senator CRANSTON. No, I do not.

But I thank the distinguished Member of the House for his leadership on this issue, as on so many others.

Mr. BENNETT. Thank you.

The CHAIRMAN. I thank you very, very much, indeed, for being here at some inconvenience, and appreciate very much your introducing the bill. May we both have good luck with it.

Thank you.

Mr. BENNETT. Good luck to you, and thank you.

The CHAIRMAN. This morning, the committee will hear testimony concerning the decision to reflag the Kuwaiti oil tankers. On June 4, 1987, along with Senators Hatfield and Cranston, I introduced S. 1327, legislation that would prohibit such reflagging of any vessel owned by a gulf nation for the duration of the Iran-Iraq war.

I think the time has come for some really straight talk about this issue. The administration claims that its intention is to protect international shipping from further threat of attack in the gulf.

Now let us examine for a moment what is the threat that demands such a high risk for our country.

Some 600 ships transit the gulf each month—600 each month—or 7,200 transits each year. For the entirety of the gulf war, a total of 314 ships have been attacked, most of them by Iraq. That is less than 1 percent of the shipping passing through the gulf since the war began, and there is no appreciable this year over the previous year.

Furthermore, the purported U.S. response to this threat—reflagging of 11 Kuwaiti tankers—is hardly sufficient to meet the alleged threat that exists to all 600 ships passing through the gulf each month.

If our objective is truly to keep the Strait of Hormuz open and the oil flowing, why do we propose to extend protection to Kuwaiti vessels only, when we do not extend it to others?

The Kuwaiti vessels will be wrapped in the American flag, in the Stars and Stripes. We will have American-owned and American-chartered vessels that are flying flags of convenience, such as Liberia and Panama, and they will not get that same protection.

It appears to me that the decision to reflag the Kuwaiti tankers was made only after it was learned that the Soviets were about to do the same thing. This decision also seems designed to reassert U.S. credibility in a region where it has been tarnished by the still unravelling story of the Iran-Contra affair.

Here the administration, which publicly talked of an arms embargo to Iran, while covertly having sent much war material to the Ayatollah, finds itself in an inconsistent position, to put it mildly.

In my strong view, the risks far outweigh any possible gain we might make in the gulf.

Our allies are not with us on this, and have quietly counselled us to keep our distance from the conflict. Even the gulf states themselves have demonstrated no enthusiasm for the introduction of superpower protection to one of their own neighbors.

What we risk in the gulf today is being dragged into another Lebanon where, however unwittingly, we become a party to a conflict and do so at our peril.

To protect Kuwaiti tankers is, I think, to provide assistance to an active adversary of Iran. Well, fine.

Iran, however, has not once attacked an American vessel in the gulf and will clearly see this as a provocative step on our part. Coupled with our not-so-veiled threat to "take out" the Chinese Silkworm missiles if deployed by Iran, the reflagging has the potential of engaging us in the war.

I think now is the time to decide that issue by preventing the reflagging of vessels that might lead the United States, however good our intentions, into a war with no certain outcome.

That is why I have introduced S. 1327, which, one, would prohibit the reflagging of the vessels; and, two, urges the President to follow the United Nations route, which, as I said earlier, would seem to be the advisable one, as the situation there is tailor made for the creation of a United Nations peacekeeping force.

I would ask the administration witness to come forward. They are the Hon. Michael Armacost, Under Secretary for Political Affairs of the Department of State; the Hon. Richard Armitage, Assistant Secretary for International Security Affairs, Department of Defense; and Rear Adm. John Kime, Chief, Office of Marine Safety, Security, and Environmental Protection, U.S. Coast Guard, of which I am proud to be a retired Captain in the Coast Guard Reserve.

My welcome to him particularly.

Senator Cranston.

Senator CRANSTON. Mr. Chairman, I do have a brief statement. Thank you.

Mr. Chairman, I am pleased to join with you in this hearing and in the legislation before this committee. I am pleased to be one of the two original cosponsors of the legislation, which was introduced by the chairman.

This legislation would prohibit the U.S. Government from reflagging Kuwaiti or other nations' vessels for the duration of the Iran-Iraq war. It would also urge the President to seek a United Nations peacekeeping force to protect nonbelligerent shipping to the Persian Gulf, and to seek an early end to the Iraq-Iran war.

The administration is proposing to take action in the gulf without adequate consultation with the Congress regarding the consequences and the costs of these actions.

This is analogous to what just occurred in the case of the ill-fated Saudi arms package.

The American public deserves to have a clear understanding of what the administration seeks to achieve in the Persian Gulf and the implications of that policy.

I believe the Reagan administration's proposal to reflag Kuwaiti tankers is unwise and could lead to direct United States involvement in the Iran-Iraq war.

The United States would hand over to the Ayatollah Khomeini the decision of whether the United States will find itself at war. If he attacks the ships, we are at war.

The United States may be backed into a situation where options will be narrowly limited and we will be forced to act by default.

The administration has failed to outline a clear, coherent policy concerning the gulf and the Iran-Iraq war. I hope it will do so this morning.

The United States has a longstanding commitment to ensure freedom of navigation on the gulf. We have had a naval presence in the gulf for the last 40 years. The Iran-Iraq war changed the nature of that presence when United States naval ships were armed at all times and began to escort United States flag vessels in and out of the gulf.

I believe we should continue to maintain that presence, but we should do it in consultation, cooperation, and collaboration with our allies.

Our presence should be carefully defined and the rules of engagement for U.S. vessels under attack need to be unquestionably very, very clear.

I question whether access to the Persian Gulf has been threatened to a degree which warrants the actions proposed by the administration.

There is an average of 600 ships a month in the Persian Gulf. Since the Iran-Iraq war began in 1980, only 1 percent of all tanker traffic in the gulf has been attacked.

I believe that U.S. statements and actions are escalating an already tense situation. This stirs up the belligerents, leaves our allies confused, and pushes already frayed nerves closer to the edge.

While the United States has a historic commitment to freedom of the seas, that commitment is to neutral shipping, not to the shipping of belligerents or their allies. The main threat to freedom of the seas in the gulf actually comes from Iraq attacks on ships carrying Iranian oil. What are we doing about that? What, if anything, should we do?

It seems to me that the decision to reflag the Kuwaiti tankers is more of a reaction to the Soviet decision to lease tankers to the Kuwaitis than to the need to maintain freedom of shipping.

The administration should be careful not to set a precedent in the gulf of allowing nations to entice us into unwise situations because United States and Soviet interests and actions have been played one against another.

The Kuwaitis may well have invited the Soviets to flag three of their ships in order to induce the United States to leap in, in hopes of involving both superpowers in the war against Iran.

Most of the oil that is shipped through the gulf goes to Western Europe and Japan. It is true that a disruption of the oil flow from the gulf would affect world prices of oil and could cause a scramble for available oil.

The United States must act in its own interest, but cooperation with the allies is essential.

What is our allies' assessment of the situation in the gulf? Have they misassessed the threat? Or has the administration done so?

The Reagan administration and Congress share a grave responsibility to weigh the situation in the Persian Gulf and to design a clear, comprehensive policy. That policy must be clearly articulated, along with a clear presentation of what it entails, to the American people. American lives are at stake in the gulf.

I strongly urge my colleagues to support the legislation we are discussing today.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Cranston.

I would recognize the ranking minority Member, Senator Helms.

Senator HELMS. Mr. Chairman, I thank you very much, of course.

I have observed that after being effectively shut out of the Middle East for the past 15 years, the Soviets have now undertaken a number of initiatives aimed at reestablishing their presence as a force in the region.

At the forefront of these efforts, of course, is the Soviet attempt to become a legitimate force in the Persian Gulf through the leasing of three tankers to Kuwait.

Now Soviet initiatives in this region should be of great concern to us. The Soviet interest in the Middle East is only to create the kind of discord, contentions, and confusion necessary to disrupt Western oil suppliers and frustrate American interests. This explains, I think, why the most radical and belligerent factors in the Arab world tend to be Soviet clients.

These Soviet activities should be of great concern also to our moderate Arab friends because, while the threat of Khomeini-inspired radical fundamentalism cannot be minimized, the great long-term danger to the region is the Soviet Union and their radical clients.

So, by inviting the Soviets into the gulf, Kuwait has done no favor to its moderate Arab neighbors nor to the United States. The Kuwaiti leasing of three Soviet tankers has certainly put us into something of a bind. If we agree to reflag the 11 tankers, as promised, we will be legitimizing the Soviet presence in the gulf. If we refuse to reflag, the Soviets might well agree to take our place, thus increasing their role in the gulf.

Now I am not sure how we are going to get out of this bind. Maybe we should condition our reflagging on Kuwait's cancelling the Soviet leases. Keeping the Soviets out in this manner is in our interest, as well as that of Kuwait's moderate neighbors.

However, one thing seems clear to this Senator, which is that this committee will need some more answers before we head into the markup on Thursday. We need to know more about Soviet interests in the region, how the Kuwaitis have served these interests, and how we can best, to be frank about it, thwart them.

We need to know more about how the Congress can address this reflagging policy and still remain within its powers, as provided by the Constitution.

In light of all the uncertainties surrounding this reflagging policy, we certainly need to determine whether the administration would be better off submitting its agreement with Kuwait for formal congressional approval.

I look forward to this hearing providing answers to these as well as to other questions of import to Thursday's markup.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Helms, very much.

Mr. Armacost, would you care to proceed.

Senator BOSCHWITZ. Mr. Chairman.

The CHAIRMAN. Senator Boschwitz.

Senator BOSCHWITZ. I just arrived, but if I may, I would like to make an opening statement.

The CHAIRMAN. All right. Go ahead.

Senator BOSCHWITZ. Mr. Chairman, I want to make a little broader opening statement, not to exceed 5 or 7 minutes, if I may.

I was thinking on the way down this morning that we would have this hearing and that we would consider at this time your resolution, which would be seen really as a withdrawal to a large degree from the Persian Gulf.

I began to think about our respective positions on both sides of the aisle, that really it was quite different than the earlier years of this century, even not so many years ago. For many years, the Democrats led the way in international affairs in the sense of being more internationalist, and we, on this side of the aisle, were more isolationist until the Second World War.

However, that appears to have changed. There has been a reversal. Unfortunately, the postwar bipartisan spirit has been largely removed from many issues of foreign policy as well.

I respectfully think that many of my colleagues on the other side of the aisle seem to want to withdraw from the world, that they are afraid to use the power of the United States in defense of what I, at least, consider our national interest and the Free World's interests as well, Mr. Chairman.

I would like to consider a number of examples in that regard.

I might say, Mr. Chairman, that I recall our conversation on the floor of the Senate at the time of the Genocide Convention. We talked about your father and his impact on foreign relations in the late 1930's, when he was very much involved in the whole idea of an involvement in world affairs that other people wanted to withdraw from, much to the everlasting credit of himself and your family.

But consider the following list of facts, if you will.

In Central America, my friends and colleagues on the other side of the aisle want to cut off all aid to the Contras, and I think, in the process, any real prospect for negotiations.

They want, in effect, to allow the Sandinistas to consolidate their control, and I do not think that that would be in the interest of our country.

In the face of a very massive Nicaraguan buildup, the other day this committee voted 10 to 9, along straight party lines, to deny even 12 aircraft to Honduras.

In Africa, many on the other side of the aisle advocate the complete removal of United States influence in South Africa by pushing for total disinvestment. While I have no more truck and no more sympathy with apartheid than any other Member of the Senate, nevertheless, in effect, we would be walking away from South Africa and by so doing very much reducing our influence there. I think that we have seen in recent months, perhaps because of that, that the South Africans themselves have voted for a harsher line on apartheid.

A number of years ago, the other side of the aisle, I say with respect, had voted to bar aid for the freedom fighters in Angola, though as of late, we have restored at least some of that.

In arms control, if I may say, my friends on the other side of the aisle want to have a very narrow interpretation of the ABM Treaty. They want to force compliance with an unratified treaty that the Soviets have also violated. I think that the President's rather steadfast position on arms control matters may lead to an arms treaty that will actually reduce the number of nuclear missiles.

I most respectfully say, as I see the attitude of many of my friends on the other side of the aisle on the defense budget, that that also is representative of a withdrawal from international affairs. It is absolutely the reverse of what occurred in the thirties and earlier days, and beyond the thirties as well.

Also, I see the same thing in protectionist trade legislation, very frankly, that there is a sense of economically, even, a fortress America.

And now there is the Persian Gulf. The chairman's proposal would simply, in my judgment, damage U.S. interests and invite participation of the very people that we want to keep out of the Persian Gulf.

The message has to be fairly clear around the world that when there is an element of risk, the United States withdraws.

I think that perhaps this is to some degree Presidential politics, or politics in general. But, frankly, I find that some of the positions I take—I am not always entirely comfortable with them. They are in opposition to my friends on the other side of the aisle—frankly, I sometimes find myself being perhaps a little stronger in taking those positions than I would otherwise be simply because we are polarizing each other.

It would be my hope that we could move away from that. Each issue that comes before the committee during the few months of this new term, the 100th Congress, has been that way.

We have seen more party line votes in this committee and we have seen more of a hardening of attitudes for one reason or another, and I would hope that we could pull away from that, because we are just going to polarize ourselves more and more.

I think, by and large, that we are all people of goodwill and understanding and that we want the same ends. So, as we begin this hearing this morning, I was struck by some of these observations, Mr. Chairman. I have talked to a number of my friends on both sides of the aisle about the desirability of our really trying more to work together for the purpose of a more bipartisan spirit in foreign relations.

I think until we do that, we risk having just a series of failures around the world and that, unfortunately, some of our friends, even, and certainly our foes are going to play us off against one another, and that this certainly is not in the national interest.

I thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Boschwitz.

I would add here that we have had two Democrats and two Republicans making opening statements. I think that is probably more than it should be. We should have just one, and then we can make our statements out of our time.

I thank Senator Boschwitz for his kind references to my father and the work he did in connection with war crimes, and I will answer him in my 10-minute period, when it comes.

But I think we should move on to the witnesses and the business at hand.

I would ask Mr. Armacost if he would lead off.

STATEMENT OF HON. MICHAEL H. ARMACOST, UNDER SECRETARY FOR POLITICAL AFFAIRS, DEPARTMENT OF STATE

Ambassador ARMACOST. Thank you, Mr. Chairman. I am happy to appear before the committee to address an issue of great public importance. I hope I can dispell some of the misapprehensions that I think have arisen over this issue in recent days.

I have submitted for the record a lengthy statement. I don't know whether you wish me to proceed through that statement or to make a few comments off the cuff as a means of getting the discussion started.

I am happy to proceed as you wish.

The CHAIRMAN. I would appreciate it if you would summarize. The statement will appear in full in the record.

The unclassified report to the Congress we have not yet received. I understand it is coming up today. The classified report we got last night, but I have not had a chance to go through it in any detail, or really at all, as I would like.

I'm sorry. The unclassified report has just arrived, and that is now with us, too.

But if you would, summarize your statement, and I think we would all be appreciative.

Ambassador ARMACOST. Surely.

Let me start with the issue of American interests.

It is certainly true that we have had longstanding and enduring interests in the free flow of oil through the gulf. We clearly have an interest in free navigation in important international waterways. This, I think, has emerged in public discussion. I think your comments reflect this, Mr. Chairman.

Those interests are not immediately imperiled.

It has been true, as you suggested, that less than 2 percent of the ships transiting the gulf have been attacked.

It is true that the bulk of the oil has been getting through. Oil prices have not been dramatically affected. Insurance rates have not skyrocketed. Shipowners have been able to find crews. When attacks have occurred, the damage has been relatively modest.

So, despite the fact that we have an enduring interest in keeping the free flow of oil through the gulf going, there is not an immediate danger to the oil, nor is there an immediate danger to free navigation, in the sense that we have assumed any responsibility to protect the vessels of other nations.

We have a limited liability to protect U.S.-flag vessels in the Persian gulf, and this is a traditional function of the U.S. Navy. They do not obviously convoy or escort U.S. ships around the world, but in areas where there is a danger, they have assumed a protective role. We have been providing such protection for, I believe, about 3 years.

Now, there are two other interests that have been important to our involvement in the gulf more recently. We have for more than a generation actively cultivated friendly relations with a number of the moderate countries on the gulf. They are very important oil suppliers. They are countries, by and large, that have exhibited a hospitable attitude toward American interests.

We have devoted a lot of effort in cultivating close political, security, commercial, and economic relations with those countries.

We have also had a very active interest for strategic reasons in limiting, to the degree possible, the Soviet role, particularly any military role, in the gulf. The reason for that I think is self-evident. The gulf's importance to the West is fundamental and obvious.

The Soviet Union is a net exporter of oil. They do not have a commercial or economic interest in oil from the gulf. But if they were to establish a major foothold there, it would clearly give them leverage over important Western interests, which it is our objective to contain and limit to the extent that we can.

It has been these latter two interests of the United States that have been engaged very actively by the Kuwaiti request that came to us last December, to reflag or charter, that is, reflag in the United States or charter American vessels, to acquire greater protection from intimidation or harassment from Iran.

Kuwait is a country which is obviously a vulnerable country. It is a very small country. Its geographic location during a period of active hostilities between Iran and Iraq is a most uncomfortable one.

It is not a belligerent in the war. But I think it is clear where Kuwait's sympathies lie. They did not support the initial Iraqi attack on Iran. They did not provide active support to Iraq until Iran was aggressively seeking control over Iraqi territory. But they clearly recognize the danger to themselves, given their structure and their location, from an Iranian victory in this war.

They share an interest with us in seeing that Iran does not prevail, and they share our assessment that at this point it is almost inconceivable that Iraq could win a military victory in this conflict. But it is by no means inconceivable that Iran could.

Therefore, their sympathies in the conflict are clear: To prevent an Iranian victory. They share our own interest in bringing the conflict to a rapid conclusion with neither victor nor vanquished, and with the territorial integrity of the two parties to that conflict intact.

Now, because of Kuwait's vulnerability and because of its sympathies for Iraq, although it remains, as I say, a nonbelligerent, it has been subject to a disproportionate degree of intimidation from Iran. This intimidation has taken the form of harassment and terrorism internally, and I might say that the Kuwaitis have stood up to that pressure in a very admirable way.

We have not been immune to it, either. You will recall that in 1983, our Embassy in Kuwait was bombed. Foreign Service nationals in the Embassy were killed. The Kuwaiti reaction was not to cut and run, or to accommodate. Rather, they took a very firm position, despite intimidation from Tehran and pressure from other countries in the region, despite an assassination attempt on the emir himself. The Kuwaitis have, I think, supported a very strong counterterrorism policy which is compatible with our own instinct. They have refused, for example, to release the Da'wa prisoners, despite a tremendous amount of pressure from outside the country.

Since last September, the Kuwaitis have been particularly singled out in Iranian attacks on shipping. The overwhelming majority of attacks emanating from Iran have been targeted on Kuwaiti-associated shipping, that is, some of their tankers, more frequently against chartered ships that were aiming for Kuwaiti ports.

It was in that context that they, as a small state, as a nation inclined quite naturally to hedge their bets, to find protection where they could, turned apparently simultaneously, or if anything first to the Soviets and then to us, for some protection for their shipping.

So they confronted us, essentially, with a request to either charter American vessels or reflag their vessels in the United States to enhance the protection of their shipping in the gulf.

Now, some have argued in this debate that has emerged recently that somehow or other they are not a neutral in this conflict, and to the extent that we allow the reflagging to go forward, we become a participant in the war ourselves.

In fact, they are not a belligerent. They have not been considered to be a belligerent, even by Tehran, although, as I said, their sympathies, as between the parties to the conflict, are clear.

What is involved in the shipping, moreover, is the transportation of noncontraband goods from neutral ports via neutral ships. While some have claimed that this would provoke Iran, in fact it is difficult for me to understand why it should be considered provocative to transport a commodity that is not contraband under the traditional rules of international law from a neutral port via a neutral ship, or to extend our own technical requirements to permit reflagging so that those ships could enjoy some greater protection.

So, essentially, what we have done is to respond to the requests from a country that has been a friendly country, an important oil producing country in the gulf, to find greater protection from this harassment and this intimidation, directed by Tehran, at a time when the alternative to our responding to them would have been clearly to see a larger Soviet protective role in the gulf.

This, obviously, if established over a period of time, brings these larger and durable interests into play. As I think everyone would recognize, the free flow of oil from the gulf and the security of international navigation would be in greater jeopardy if the Soviets can establish over a period of time a large responsibility for a protective regime of oil destined essentially for the West.

Our decision, which was a limited decision, to extend the procedures for reflagging to Kuwait, was not an open ended commitment to protect all neutral shipping. Quite the contrary.

Our protection is limited to U.S.-flag vessels, though clearly under this arrangement there will be a somewhat larger number of them in the gulf. And our choice was made at a time when the alternative appeared to be a much larger Soviet role.

They responded initially to the Kuwaiti request of them with a very prompt and a very forthright and very forthcoming manner. I guarantee you this was a very important aspect of our own decision.

Now, I think it would be failing in candor if we did not acknowledge that this decision does incur some greater risks for the United States. I think, without a doubt, the greater the number of American vessels in the gulf area, perhaps the greater the possibility that accidents might occur, the sort that we saw in the incident involving the *Stark*.

It is also, however, true that the debate at the moment seems to focus on the likelihood that we will be drawn into the Iran-Iraq conflict, or that Iran will consider this act an act of provocation and will respond with military activity of its own.

We have seen some menacing rhetoric, to be sure, from Tehran. But the only tangible evidence of Iranian conduct with respect to shipping has been marked by considerable caution and prudence.

They have never attacked an American naval vessel in the gulf. As far as I know, they have not attacked any U.S.-flag vessel or commercial vessel when an American warship was in the vicinity.

In recent weeks, when we have seen some hyperbolic rhetoric from Iran, we have also seen that whenever United States vessels have radioed requests to Iranian aircraft or vessels to veer away from the area in which our vessels were located, they have responded immediately and in an accommodating way.

They have, on one occasion, requested to board an American vessel, within the traditional rules of international law, but that one occasion has not been duplicated in recent months.

I repeat, although there is considerable menace in the rhetoric, the Iranians have responded with great caution in the gulf, I suspect because they have considerable respect for our military power, and they presumably do not wish to do anything which might precipitate or provoke even more active support by the United States for their adversary in this conflict, and because they presumably do not wish to see a larger external presence in the gulf, which they tend to regard as the Persian backyard.

Now, we have seen, I think, that not only we, but others, have regarded the escalation of the conflict in recent months as a source of danger. It is worrisome. We have tried to respond to that by mounting a much more active effort in the United Nations to bring the conflict as a whole to an end. We have done that in the U.N. by altering the traditional method of U.N. involvement in this war.

Historically, there have been many efforts to pass resolutions in New York in the Security Council on the Iran-Iraq conflict. By and large, those efforts have been marked by an attempt to embody in resolutions points of agreement between the two parties.

Clearly, the antagonism between these parties is so deep that if one limits oneself to that formula, then it essentially is a formula for irrelevance and impotence.

We have approached the issue in a different way, recently, by trying to define with the other great powers; that is, the other permanent members, the international interests which, in our judgment, is to get a cease-fire as promptly as possible, to get a withdrawal of the contending forces to internationally recognized boundaries, to get an exchange of prisoners and other details of a settlement.

We have found a more receptive attitude on the part of the permanent members than one might have expected, and we have gone some considerable distance in recent months toward agreement on resolutions that embody that approach.

The important thing, in our judgment, is not simply to pass a hortatory resolution. These things get tossed out into the air and they have a very evanescent quality to them.

Our objective is to put some teeth into a resolution, so the party that does not honor a call for a cease-fire pays the price for its conduct.

That, in our judgment, should mean enforceable measures, mandatory sanctions, in this case an arms embargo.

We are at a stage at this juncture where there is considerable agreement on the general approach. A first resolution would not embody the enforceable measures or the mandatory sanctions, but that would be part of a second resolution. We are kind of in midstream. But I am happy to report that we have achieved more success, I think, for any venture of this sort than we would have expected to achieve when we embarked on it early in the year.

There have been a lot of questions raised about burden sharing. I think these are perfectly proper concerns.

These are directed in two ways—at the gulf countries themselves, and at some of our principal Western allies, who do depend upon gulf oil more than we.

With respect to the gulf countries, I think I would say in the first instance that we would look, quite naturally, to Kuwait for cost sharing efforts.

Mr. Armitage can address these issues perhaps in more detail than I, but it is my understanding that COMIDEASTFOR, our naval contingent in the area, has found the Kuwaitis responsive to all of our requests to date, and those include a request for gratis oil, so that they would provide, free of charge, I believe, the oil to permit the escorting of our flag vessels in the gulf.

I am not sure these issues have been entirely wrestled to the ground, but that is our expectation. We have been making progress.

With respect to the protective regime, we are also approaching other gulf countries. To date, we have found what we think is a reasonable response. I would have to say that quite naturally, small countries are reluctant to expose themselves to fire without being sure the great powers will follow through.

The debate in which we are engaged in this country naturally inspires a degree of hesitation among the smaller countries of the gulf. They want to be sure whether we will follow through before they take on additional risks with respect to Iran and others.

But we feel that, to date, there has been a reasonable response to our request for burdensharing in the gulf.

As far as the major Western allies are concerned, much of our effort to date has been directed toward soliciting their help in our diplomatic efforts to bring the conflict to a end.

As it happens, the British and the French are permanent members of the Security Council, and during this particular year, the Italians, the Germans, and the Japanese are all members of the Security Council, and they have all indicated, as evidenced by the statements in Venice last week, a willingness to be active and energetic and helpful in the initiative upon which we have embarked in New York.

They have also been helpful, I think, in our continuing efforts to slow down or suspend arms deliveries to Iran. We will look for other ways to engage them in accordance with their own interests in the gulf and their own particular capabilities.

I think everyone recognizes that the Germans and the Japanese have constitutional and legal inhibitions against a direct military involvement, and, therefore, our discussions with them have focused on ways in which they can make other contributions to security and stability in the region, the Japanese most particularly through an expansion of their own financial contributions to countries in that area directly affected by instability in the gulf. Jordan represents a prime example.

Therefore, we are not disconcerted in the slightest by the efforts at burden sharing to date. We will continue to talk with other countries. The British and the French have a military presence in the area, and our discussions with them focus very heavily upon the coordination of our respective efforts.

We assume no responsibility for protecting their nations' flag vessels and they have assumed no responsibility for ours. But there is much that can be done through professional naval consultation.

In short, Mr. Chairman, the burden of my testimony would be that there are obviously very large and vital interests of the United States at stake in the gulf. In the immediate issue that we confronted, the challenges were to a particularly friendly country in the gulf, and the degree to which we could limit a Soviet protective role in an area of enormous importance to us. We looked at that carefully, and with the options available, we felt this was a prudent means of extending, in a limited liability way, the protection that we accord U.S.-flag vessels in the region.

We know it is controversial. But we think, if one examines the alternatives, that this is a prudent and a justifiable course upon which we are embarked.

We also believe that to pull back from that would send a very powerful signal to our friends in the gulf, to Iran, and to the Soviet Union. While I suppose there are some difficulties in defending this case here, I would rather defend the case that we have than try to defend the case of refusing at this juncture to move forward, with the consequences I think that will have in the gulf area because of conclusions to be drawn by the smaller gulf countries, by the Iranians, and by the Soviet Union.

That, Mr. Chairman, is my statement.

We will be happy to take questions.

Perhaps Mr. Armitage would wish to elaborate.

[The prepared statement of Ambassador Armacost may be found in the appendix.]

The **Chairman**. Thank you very much.

Mr. **Armitage**.

STATEMENT OF HON. RICHARD L. ARMITAGE, ASSISTANT SECRETARY FOR INTERNATIONAL SECURITY AFFAIRS, DEPARTMENT OF DEFENSE

Mr. **Armitage**. Thank you, Mr. Chairman.

You have, in the past, lauded us for our candor, so I will not stretch the limits of credibility and say how happy I am to be here today.

I note that I was as tall as Senator Evans or Senator Kerry when we started this debate about 3 months ago, and my height has been diminished significantly since then, but my spirit has not been. The reason it has not been is because for us and in our view, this is, what we are talking about, is a whole calculation of national security. It is not a whim or a fancy.

You were kind enough to refer to the report which we forwarded to you and other members of the leadership. Mr. Chairman, you and Senator Helms got a copy last night of the classified version. We are waiting and will await the decision of the leadership on whether to provide the classified version to all Members of the Senate or the House. We are delighted to do so. We just want the word from the leadership.

You are also correct in that we have an unclassified version. We are rolling them off the presses now. We have given you some this morning.

Senator **Helms**. How many copies of the classified report did you send?

Mr. **Armitage**. Sixteen, sir. We sent them to the Speaker and to the majority leader and to the Ranking Republicans in both Houses. We sent them to the chairmen and the ranking minority of the Foreign Relations Committees, the Armed Services Committees and the Appropriations Committees, Senator Helms.

Senator **Helms**. When were these available?

Mr. **Armitage**. They were made available right after 1700 last night.

Senator **Helms**. Right after what?

Mr. **Armitage**. After 5 o'clock, sir.

Senator **Helms**. Well, we got ours at about 5 minutes past 6, and I have not even had a chance to look at it.

Mr. **Armitage**. I did not suggest that you would have.

Senator **Helms**. Well, you know, it would be useful for this hearing if we knew what we were talking about.

Mr. **Armitage**. Yes, sir.

If I may, I would make the point that we were rushing, in fact, all weekend, to get this report up before there was any mandated language because we wanted to demonstrate the spirit in which we were trying to consult with the Congress.

I apologize for getting it to you when we did, but it is the best we could do, and we are trying to make the other copies now.

I have noted, or I was noting, as I put together or assisted in putting together this report that I had to reflect on my own service. I know that many of you have had service—Senator Evans, Senator Boschwitz, Senator Helms, the chairman, Senator Cranston, and Senator Kerry. We will all remember I guess a statement from those days that the enlisteds used to throw up to officers, and that was that "rank has its privilege." Then the rejoinder was yes, "but rank also has its responsibilities—RHIP and RHIR."

That is very much the same case with the superpowers. The superpowers do have their privileges.

We have a tremendous privilege. As officials of the Government, Senators, elected officials, or just as people, citizens of the United States, we have the privilege of always getting an audience. We have the privilege of always being heard, of being treated appropriately. We have the privilege of being able to affect the course of domestic political debates in some countries in a way that we think is best for the common good and for the world good.

These are privileges indeed. But with that privilege comes a tremendous, tremendous burden. And one of the burdens is the burden of leadership.

We think we are trying, in a cautious and prudent way, to assume that burden of leadership.

Obviously, as Mike stated and many of you have stated, to the extent we can do things with others, this is good. We agree, it is appropriate. But many times we have to lead the way, and it is a burden of leadership.

Mike was suggesting that at some future time, with future Representatives and a future administration and perhaps future Senators, how different the tenor of the conversation would be if administration witnesses were trying to defend not having done anything in allowing the Soviet Union to be the predominant power in the Persian Gulf, an area which is not a vital interest to them but which is a vital interest to us.

Finally, Mr. Chairman, you were absolutely correct in your noting that Kuwaiti, or rather Persian Gulf shipping has been affected to the tune of about 1 percent. This is how much the shipping has been affected.

But the Kuwaitis, since September, have suffered losses at about 6 percent. This is very much in line with the losses in World War II which the convoys were suffering. They were serious at the time you were involved in the convoys, and they are serious now to the Kuwaitis. And we are responding to their requests.

Thank you very much for your attention, and we will try to contribute to the debate.

[The report referred to is in the appendix.]

The CHAIRMAN. Thank you very much.

Admiral Kime.

STATEMENT OF REAR ADM. JOHN W. KIME, CHIEF, OFFICE OF MARINE SAFETY, SECURITY, AND ENVIRONMENTAL PROTECTION, U.S. COAST GUARD

Admiral KIME. Thank you very much, Mr. Chairman.

It is also a pleasure for me to be here before you and the committee this morning.

I have no prepared statement.

I would, at your pleasure, be prepared to give a summary of the procedures the Coast Guard uses in general to reflag vessels. I could give you an update on the status of the reflagging of the 11 vessels, and I could certainly respond to any questions that you have.

I am in your hands, sir.

The CHAIRMAN. Thank you.

I think if you would answer our questions, that would suffice. I suggest we start with our round of questioning now. Ten minutes I think should be the time for Senators because we have two more panels after this one.

In the first place, I would like to say to my friend from Minnesota that I do not agree with him that we are less internationalist. I think we are just a little bit less willing to get into dangerous and foolish situations that are not supported by the American people.

Actually, some of the greatest interventions which have not been too successful have been under Democratic administrations. I am thinking particularly of Vietnam, which I opposed vigorously. It was really the creation of my own party. It started then.

I think what we ought to bear in mind is the old adage of Palmerston. I wrote a book about 20 years ago, and one of the themes of the book, or rather the theme of the book was built around Palmerston's adage, that we have no perpetual, no eternal allies, no perpetual enemies. Our interests are eternal and perpetual, and those interests it is our duty to follow. By that we mean that we do not blindly follow a policy because we followed a policy in the past. But we follow what our national interest is now.

It would be my great pleasure to give you my book. It is still available and, I believe, in print. It is called "Power and Policy."

Senator HELMS. What is the price of it, Mr. Chairman? [Laughter.]

The CHAIRMAN. I'm not sure. I think it is a remainder item now, for about 40 cents, probably. [Laughter.]

Senator BOSCHWITZ. I thank the chairman, and I will respond in time.

The CHAIRMAN. Thank you.

In connection with the questioning of the witnesses, I really have a very, very real concern in this because I see a situation starting where, because we have already made a little commitment, we then have to make a bigger one and a bigger one. One of the arguments that you, Mr. Armacost made, is of the dangers of backing down at this time.

Well, sometimes it is better to back down early in an improper procedure than to back down late in it or to get caught in a situation with a real loss of life and real danger to our people.

I was wondering from the viewpoint of the true American national interest, if that is followed.

Further, why is this not an ideal situation to create a United Nations task force or peacekeeping force with the ships of four members of the five permanent members of the Security Council there?

Our first reaction is always, perfectly understandable from the viewpoint of the history of the last 40 years, to bash the Russians. But when the Russians and we have a similar interest there, where they have said they have no intention of increasing their fleet there beyond the three fairly small minelayers that they have, why could we not move ahead with a more positive resolution in the Security Council in this regard?

As you know, the bill which we are introducing here, which Senator Cranston, Senator Hatfield, and I are cosponsoring, has two prongs. One prong is to stop this flagging of Kuwaiti vessels, and the other prong is to create a United Nations peacekeeping force made up of the vessels of the permanent members of the Security Council who are there.

What is wrong with that idea?

Ambassador ARMACOST. Well, we see a role for the U.N., as I indicated in my comments, Senator Pell. Above all, we have tried to see whether or not the U.N. Security Council and the great powers might be mobilized on behalf of bringing the war to an end as quickly as possible. That would eliminate the dangers of a shipping conflict in the gulf.

That is an interest in which, at least in the short term, our interests and those of the Russians do converge, because I think they view with apprehension the possibility of an Iranian victory in the war.

But I think in the gulf, over the longer term, we do not have necessarily converging interests. We have historically been a competitor of theirs in the gulf, and, aside from the practical problems of creating a multilateral U.N.-sponsored protective regime, there is the question of why we should legitimize an ongoing Soviet presence in a protective regime over oil which, to an overwhelming degree, is destined for the West.

We have felt that it is possible to manage the protection with limited risks, essentially through Western auspices, while, at the same time, capitalizing on a degree of convergence in our interests with the Russians in the U.N. to get the war brought to an end.

Now, whether that venture will succeed, we cannot say with any assurance at this point. But the Russians, to date, in New York, have been willing to talk about that, as I say, for hard reasons of national interest of their own. This is to say, they do not wish to see an Iranian victory, and for the purpose, therefore, of avoiding that, we may be able to mobilize their help in ending the war. That itself would reduce the dangers to shipping immediately and most dramatically.

The CHAIRMAN. Backing up myself for a moment, would there be any objection to the creation of a peacekeeping force of the three permanent members of the Security Council there—the United

Kingdom, France, and the United States—and actually having a peacekeeping force flying the U.N. flag?

Ambassador ARMACOST. Well, with all due respect, I think the arrangement under which we are planning to proceed, once a protective regime is in place and our consultations with the Congress are completed, incurs perhaps less risk to the United States because at the moment, we do not assume responsibility for the vessels of other nations' flags.

We have been protecting American commercial vessels and American Military Sealift Command vessels for some years. We have had a military presence in the gulf.

Many of the risks to which we are now exposed are not new risks, although the number of American-flag vessels will increase somewhat. But under those circumstances, we do not see that this represents a radical departure. We do believe it may incur some greater risks.

As far as the British and the French are concerned, they have not, to date, asked us for any additional protective measures for shipping in the gulf. The British have increased their own military presence very slightly. They have had a continuous presence in the gulf since 1980 of two or three combatant vessels. They have put a third vessel in recently.

But I think they have not looked toward an expansion in their obligations to third countries; that is, to protect the vessels of other countries, nor I think do we. What we are talking about is a limited extension, and from all of the experts that I have talked to, our experts do not believe that this request from Kuwait will inspire emulation from other gulf countries.

They do not expect this to be followed by a number of comparable requests from other gulf countries.

The CHAIRMAN. Mr. Armitage, did you have a comment?

Mr. ARMITAGE. I would just add, Mr. Chairman, that the British do protect right now about 12 of their flag carriers each month, well over 100 a year, which is not that out of line with what we are suggesting we want to do.

As a proportion, the amount of their fleet which is engaged in the Persian Gulf would be higher than our own naval efforts in the area.

The CHAIRMAN. Thank you very much.

Another question is obviously you agree there is more risk here and there could very well be a United States-Iranian clash.

In view of the fact that we are pretty well straight-arming the Soviets from participating in any work that we are doing in the Persian Gulf, they would probably, having been straight armed, want to take advantage of meddling in these troubled waters and come in with the Iranians and furnish them equipment, support, and help to perpetuate the war.

Is that not a pretty logical conclusion?

Ambassador ARMACOST. Well, I think they have tried to calibrate a policy in a way that hedges their bets and covers a number of bases. Their sympathies, as I indicated, are clearly not with the Iranians, when it comes to prevailing with a military victory.

It is for this reason that in the last several years they have not supplied directly any military equipment to Iran.

They have been a major, at times the major, supplier to Iraq, and they are limited in their willingness to offer military equipment to Iran by their hopes that it will not prevail.

On the other hand, they have not cut off that option, clearly, because that is the option of keeping some supplies going through friends, and the Bulgarians, the East Germans, and the Romanians are among the key suppliers. North Korea is a major supplier.

Those countries are not necessarily controlled by the Russians, but they are clearly susceptible to major Soviet influence, that presumably represents a means of keeping a line open to Iran because they recognize it as an important strategic prize.

But their immediate interest is not in seeing Iran prevail in the conflict. Quite to the contrary, they have provided equipment to Iraq in order to frustrate that result.

The CHAIRMAN. Thank you.

Admiral Kime, in connection with the waivers that are being requested by the administration, could you briefly outline what those waivers are? In other words, will there be a waiver with regard to water-tight compartmentalization, will there be a waiver for lifesaving equipment, lifeboats and the like? What are the waivers being asked?

Admiral KIME. Mr. Chairman, first let me say that the action that the Coast Guard is taking with regard to the issues of reflagging of Kuwaiti vessels is consistent with the mandates of statutory law, and I think, very importantly, is based on preexisting policy and practices, and that no special Coast Guard interpretations have been formulated to deal with these particular vessels.

Mr. Chairman, there is in the law passed in December 1950 a provision that the Secretary of Defense can ask the head of agencies administrating the vessel safety laws of the United States to grant waivers of these laws in the interest of national defense.

We received a waiver request from the Secretary of Defense and we have responded positively to that.

That waiver requested only that we waive those U.S. standards for the construction of the vessels that are in excess of international agreements—specifically, the Safety of Life at Sea Convention, the Load Line Convention, and the MARPOL, or the Convention to Prevent Pollution from Ships, and to do that only for a period of 1 year.

So this is something that has been implemented before, Mr. Chairman.

We have now inspected all 11 of the Kuwaiti vessels. We found them to be in very good condition. We have indicated that we would not reflag them if we found that they were not in compliance with the international agreements, nor if we found any manifestly unsafe conditions. We have not found any violations of international agreements nor any manifestly unsafe conditions.

We would be prepared, therefore, under the provisions of this law, to issue a Coast Guard certificate of inspection, giving the vessels 1 year's time to come into full compliance with those U.S. requirements that are over and above the international agreements.

The CHAIRMAN. Thank you.

My time has expired.

Senator Helms.

Senator **Helms**. Thank you, Mr. Chairman.

Let's see if I can establish some parameters for the questions that I have as well as for the questions that others may have.

In the first place, Kuwait asked the Soviet Union to reflag five tankers. Is that correct?

Ambassador **Armacost**. That was a proposal at one point, Senator Helms. I am not sure that I know what the original proposal was. They apparently went to the Russians in November; they came to us in December; at a point around February, there was an active proposal to have them flag five and have us flag six.

Senator **Helms**. So, instead the Soviets agreed to lease the three tankers?

Ambassador **Armacost**. At that point, we expressed a preference to flag the 11 vessels rather than, in a sense, to share a protective regime with the Russians.

Senator **Helms**. Let's get back to the beginning on this.

Incidentally, Mr. Chairman, I was just looking at those names: Armitage, Armacost and Kime. That sounds like a law firm, doesn't it?

The **Chairman**. Yes, and a successful one. [Laughter.]

Ambassador **Armacost**. Our business is not nearly as lucrative, I assure you. [Laughter.]

Senator **Helms**. Several times you used the expression "if we pull back." Let's see what we are pulling back from.

Please understand that I am not being adversarial. I think probably we would have benefitted from a closed hearing, examining the classified material, before we went public. Some of us are flying by the seat of our britches in terms of what the real facts are.

Now, since 1984, at the start of the tanker war, there have been something like 300 attacks on tankers. Is that correct?

Ambassador **Armacost**. That is roughly correct—about 250.

Senator **Helms**. How many of these attacks were on Kuwaiti tankers?

Ambassador **Armacost**. I don't know that I have the figure in my head since 1984.

Senator **Helms**. Five?

Ambassador **Armacost**. Pardon me?

Senator **Helms**. Five?

Mr. **Armitage**. If I may, Senator Helms, since September of 1986, 31 ships serving Kuwait have been attacked.

Senator **Helms**. We are talking about tankers now.

Mr. **Armitage**. Oh, no. Not all were tankers. Twenty-three of those were tankers.

Ambassador **Armacost**. But I believe only four or five of them were Kuwaiti tankers, as opposed to the vessels of other flags chartered to put into Kuwaiti ports.

Senator **Helms**. I am informed that it is five.

Now, were any of these Kuwaiti tankers sunk?

Mr. **Armitage**. No, sir.

Ambassador **Armacost**. No.

Senator **Helms**. When was the last time a Kuwaiti tanker was attacked?

Ambassador ARMACOST. There have been no attacks, other than the accidental attack on the *Stark,* for 35 days. I would have to get that for the record.

Senator HELMS. I think it was last October. Is that correct?

Mr. ARMITAGE. We are informed that three Kuwaiti owned tankers have been attacked since September, and none has sunk.

Senator HELMS. But that was in a short period of time. My information is that October 22 was the last attack.

Now, what percentage of the oil produced in Kuwait is shipped in Kuwaiti flag vessels?

Ambassador Armacost. About 20 to 25 percent, Senator Helms..

Senator HELMS. This is something we might have to examine in closed session because the Congressional Research Service says 10 to 15 percent.

Now, if Kuwait's concern is protecting its oil, why did Kuwait ask us to protect only the carriers of the 10 to 15 percent, or the 20 to 25 percent, as you say?

Mr. ARMITAGE. I think we misunderstood the question.

These 11 tankers, we are informed by the Kuwaitis, of their 22 tanker fleet, carry 65 to 70 percent of their total exports. I am not sure that was the question you were asking. I am a little confused.

Senator HELMS. No, but that is an interesting response, nonetheless.

Mr. ARMITAGE. Of the other 11, of the 11 other tankers, 2 of them are under British flag and are protected by the British; the other 9 are shuttles, outside the gulf.

Ambassador ARMACOST. They are smaller tankers, operating outside the gulf. So the issue of protection did not arise for them.

Senator HELMS. All right.

Let's talk about these three tankers which the Soviets have so benevolently leased to Kuwait. What percentage of the oil that Kuwait produces, what percentage can those tankers transport?

Ambassador ARMACOST. I would have to provide that for the record, Senator Helms. They have been engaged, I believe, on the long distance run to Rotterdam, basically.

I can get those percentages for you.

Senator HELMS. Let's get down to the nitty gritty. Maybe this is classified and maybe it is not.

Is there any evidence that Kuwaiti tankers have also been carrying weapons?

Ambassador ARMACOST. No.

One of the arrangements that obtains with respect to U.S.-flag vessels is that the master would be a U.S. citizen and he would be in a position to ascertain that no contraband goods would be carried.

Senator HELMS. At any time in the past, there have been no weapons aboard the Kuwaiti tankers?

Ambassador ARMACOST. Oh, I would hesitate to make a statement to that. I have no way of knowing.

But at least under the reflagging proposal, we certainly are in a position to know——

Senator HELMS. We can get into this in classified session.

The Soviet Union—how much does it depend on oil from the Persian Gulf?

Ambassador **Armacost**. They are a net exporter of oil, and they do not really depend on Persian Gulf oil.

Senator **Helms**. Right. So let's get down to who does depend on oil from the Persian Gulf.

What is the U.S. percentage of consumption?

Ambassador **Armacost**. At the moment, it is between 5 and 6 percent.

Senator **Helms**. Japan?

Ambassador **Armacost**. They are on the order of 55 to 60 percent.

Senator **Helms**. Pardon?

Ambassador **Armacost**. They are at 55 to 60 percent at the moment, I believe, Senator Helms.

Senator **Helms**. France?

Ambassador **Armacost**. I would have to check the figures for the Europeans. They are more in the neighborhood of 20 to 25 percent. But I would have to supply a detailed listing for the record.

Senator **Helms**. I have 26.3 percent. But I would like to have your figures for the record for all of these.

Ambassador **Armacost**. All right.

[The information referred to may be found in the files of the committee.]

Senator **Helms**. For Germany, it is about 8 percent, then?

Ambassador **Armacost**. That would be about right.

Senator **Helms**. Now, since the gulf war threatens only the Western oil supply, you have stated that it is in America's interest to conclude this war. To what extent is it in the Soviet interest to conclude this war?

Ambassador **Armacost**. I think their interest does not derive directly from a fear of the consequences on oil deliveries. It derives, rather, from a concern about the impact of a spreading of Islamic fundamentalism in that area, and its possible impact upon the large Muslim population in Central Asia.

Senator **Helms**. It doesn't have anything to do with the Soviet desire for a presence in the gulf?

Ambassador **Armacost**. Well, I think they undoubtedly have a desire for a presence in the gulf. I would associate myself with something you said earlier, Senator Helms. They have been seeking to reestablish a position in an area of the world of extreme importance to us, and that has not been confined to the gulf, though they have been very active in recent years in reestablishing, or establishing, relations for the first time with some of the gulf countries—with Oman, with the UAE. They have had relations with Kuwait for a longer period of time. But a presence in the gulf is obviously of great importance to them and is a corollary to efforts more broadly in the Middle East to become a bigger player in the region.

Senator **Helms**. You betcha it is of interest to them.

Is this the first time the Soviets have been asked by a gulf nation to protect its shipping?

Ambassador **Armacost**. As far as I am aware, it is.

Senator **Helms**. What do Saudi Arabia and the other nations in the Gulf think about Kuwait asking the Soviets to protect their tankers?

Ambassador **Armacost**. They have not been enthused. They have not interceded, as far as we are aware, to frustrate that. They have understood that a small country like Kuwait tends to hedge its bets a bit, and though I think they find this distasteful, they have not intervened to try to upset or frustrate the Kuwaiti decision.

I might ask Richard Armitage if he wants to comment.

Mr. **Armitage**. I would say only that on the other side of the coin, the recent GCC foreign ministers meeting gave a recognition or a nod of approval toward the reflagging idea for the United States and Kuwait.

But I agree with Mike that, as far as we know, publicly they have not cautioned the Kuwaitis. We know that the other GCC states do have reservations about the increase in Soviet influence. They sometimes use the same terms that we do, that when you invite the Soviets in or you buy something from them, you get a lot more than the instruction manual.

Senator **Helms**. Well, I would say that their lack of enthusiasm for this arrangement is a measurement of their perspicacity. They know what is lying down the road for them.

I see that my time is up. Thank you, Mr. Chairman.

The **Chairman**. Thank you very much, Senator Helms.

Senator Sarbanes.

Senator **Sarbanes**. Secretary Armacost, first I want to ask you about your statement on page 7, that Kuwait or any other country can register its ships under the American flag if it meets normal requirements.

Is it your position that countries can put their ships under the American flag and then place us under an obligation to defend them, as they choose?

Ambassador **Armacost**. I think I would answer in a slightly more measured way, Senator Sarbanes, that over the last 6 years, some 50 ships have been reflagged. I doubt that many people were aware of the country from which they were reflagged. They approached the Coast Guard in a technical way, and to the extent they met the safety and certification requirements, the reflagging occurred.

In fact, we were encouraging that precisely in order to secure a larger base for requisitioning ships to our merchant marine in the event we faced a national emergency.

When states reflag, they obviously put those ships under U.S. tax laws, corporate laws, and they become subject to requisition.

In this particular case, though, it is clear that it represented more than just a technical issue. The Kuwaiti Government did raise this question with us through a government to government channel. We made a decision and communicated that decision before they proceeded to attempt to meet the requirements of the Coast Guard.

Senator **Sarbanes**. Is the first instance in which——

Ambassador **Armacost**. If I might make one further point, Senator Sarbanes, if they had come and chartered American vessels to carry that oil in the gulf, rather than reflagging their own vessels, the result, from the standpoint of our protective obligations, would have been the same, because the Navy does not discriminate between U.S. flagged vessels on the basis of whether they were reflagged or whether they were chartered.

Senator SARBANES. Is this the first instance in which there has been a reflagging in order to gain the protection of the American Navy?

Ambassador ARMACOST. I believe it is, yes. I cannot speak for individual companies, though.

Senator SARBANES. Then, it is setting a very significant precedent.

Ambassador ARMACOST. I think this is the first occasion on which we have made a government decision to respond in a positive way to such a request. The other cases, I presume, were commercial decisions.

Senator SARBANES. So there is nothing in the law that would keep other countries from seeking a reflagging in order to gain the protection of the American Navy.

Ambassador ARMACOST. That is correct, yes.

Senator SARBANES. So it is a very significant precedent.

Ambassador ARMACOST. It could be a precedent, yes.

But if a country came to protect all of its vessels, we would, by the same token, I think consider that as a decision that goes beyond simply the technical requirements, as we did in this case.

Senator SARBANES. I take it that there has been no problem in moving oil out of the gulf thus far, is that correct?

Ambassador ARMACOST. At the moment, the bulk of the oil is getting through, yes.

Senator SARBANES. All but 1 percent, is that right?

Ambassador ARMACOST. The 1 percent figure has been the percentage, roughly, of ships that have been attacked. I am not sure what percent of the oil would have been disrupted, but it would be a very small percent.

Senator SARBANES. Probably even less than that, as a matter of fact.

Mr. ARMITAGE. There has been no price increase and that is a good measure.

Senator SARBANES. There is no significant freedom of navigation problem at the moment, is that correct?

Ambassador ARMACOST. For individual ships. But we have not regarded that as the interest that was principally challenged in this case. No.

Senator SARBANES. What is the extent of the Soviet commitment to Kuwait?

Kuwait approached the Soviet Union first, is that correct?

Ambassador ARMACOST. That is my understanding, yes.

Senator SARBANES. What is the extent of the Soviet commitment?

Ambassador ARMACOST. I believe the commitment is limited to simply protecting the Soviet vessels that have been chartered to participate in Kuwait's oil trade. I know of no commitments going beyond that.

Senator SARBANES. Have they put ships in the gulf in order to protect their tankers?

Ambassador ARMACOST. They have three minesweepers and I think they have one larger combatant ship in the gulf, now.

Mr. **Armitage**. If I may add to that, Senator Sarbanes, the Soviets right now escort four or five cargo ships, mainly weapons carriers, a month to Iraq. They have three, possibly four, minesweepers near now and a Kirov class guided missile cruiser heading up into the North Arabian Sea. It is not yet in the gulf.

Senator **Sarbanes**. Kuwait came to us after it went to the Soviet Union, is that correct?

Ambassador **Armacost**. Yes.

Senator **Sarbanes**. What is your understanding of that sequence?

Ambassador **Armacost**. My understanding of the sequence was that they went to the Soviets in the November timeframe. I do not know the details of their exchanges, but we did not hear of them immediately. They came to us in December. At that point, they inquired about the certification requirements for reflagging, at which point we communicated back those requirements. In the ensuing months, we learned that there were additional discussions with the Soviets about the possibility of reflagging a certain percentage of their oil tanker fleet, that is, five to them and six to us.

It was at that point, as I say, that in calculating the various alternatives we felt it was desirable to limit to the extent possible the Soviet protective role. We, therefore, offered to reflag the 11 vessels and subsequently made a decision to expedite the procedures for that.

Senator **Sarbanes**. Are we currently selling or trying to sell weapons to Iran?

Ambassador **Armacost**. No.

Senator **Sarbanes**. Are you in a position to know?

Ambassador **Armacost**. I am, yes.

Senator **Sarbanes**. Now, if Iran were to attack one of these Kuwaiti tankers with an American flag, what would the United States response be?

I take it there would be a response?

Ambassador **Armacost**. We would act to defend our naval vessels and act to defend those ships coming under their protection.

Senator **Sarbanes**. But we would be drawn into hostilities?

Ambassador **Armacost**. Well, that is a very large phrase.

As I say, we would defend, as we normally would do, in relationship to anybody, American naval vessels that came under attack. And in this case, we have extended protection to commercial shipping in the gulf. We have done that since 1984, and in that respect, this does not change the situation.

Senator **Sarbanes**. If the United States were drawn into full-scale hostilities with Iran, would that open an opportunity for the Soviet Union with respect to Iran?

Ambassador **Armacost**. I think it would offer opportunities, and we have no intention of being drawn into full-scale hostilities with Iran. We are doing nothing that is provocative.

I reiterate: To move noncontraband goods from a neutral port in neutral shipping is not a provocation.

Senator **Sarbanes**. Well, I am just trying to look ahead because I think we need to get some sense of where this policy may take us. One place it may take us is a situation in which the United States is drawn into hostilities with Iran, and subsequently takes action to protect Iran from moves which the Soviet Union may choose to make.

Is that not a possibility?

Ambassador **ARMACOST**. It's not.

Senator **SARBANES**. On one week, we would be fighting Iran, and in the next week, we would be seeking to protect them against a Soviet menace.

Ambassador **ARMACOST**. We have many differences, clearly, with Iran, Senator Sarbanes. But we have no interest in going to war with Iran. I think, more to the point, they have no interest in going to war with us.

Senator **SARBANES**. So your assumption is that these ships will not be hit, once they have the American flag on them? Is that the premise of the policy?

Ambassador **ARMACOST**. In calculating the risks, we have looked at the tangible evidence available to us, and the evidence is they have never attacked an American naval vessel nor American commercial ships when American warships were in the vicinity.

They have behaved with circumspection and respect in response to our requests to get out of the area when they came too close to an American vessel.

Senator **SARBANES**. How was this decision made?

Ambassador **ARMACOST**. It was made as a result of discussions between the principally interested Departments, mainly the Defense Department and the State Department, in consultation with the National Security Council, and it was a decision made by the President.

Senator **SARBANES**. Were there National Security Council meetings with respect to it?

Ambassador **ARMACOST**. No. I do not think at that stage, in March, I do not believe there was a formal NSC meeting. It was a subject that came up in what is our weekly breakfast meeting among the Defense, State, and NSC participants, and the Secretary-Cabinet level meeting, and it was referred then subsequently to the President.

Senator **SARBANES**. Was it a State Department initiative?

Mr. **ARMITAGE**. No. The original inputs from Kuwait came obviously through our Embassy, and in that respect came through State. The discussion was begun because of communications which went through State channels.

But it was brought up at the Cabinet-level breakfast on Wednesday morning and discussed. Staffing had already been done on it. Each of the respective staffs offered their advice to their principals, and the decision was made, I am informed, unanimously, and presented to the President for his final decision. The decision was made unanimously among the Cabinet officers.

Senator **SARBANES**. And then recommended to the President?

Mr. **ARMITAGE**. Yes, sir.

Ambassador **ARMACOST**. I believe that is correct, Senator Sarbanes.

I would have to go back and look at the precise record to be sure. I would be glad to provide that for the record.

[The information referred to follows:]

Question. Was the "breakfast" decision to protect the reflagged Kuwaiti tankers unanimous and recommended to the President for approval?

Answer. The breakfast decision you refer to was an informal interagency discussion of the question of how best to assist Kuwait in the protection of its shipping. There was an agreement that it was in U.S. interest to respond positively to the Kuwaiti request. On the basis of this interagency concensus, a policy recommendation was made to the President, through the NSC system, and the President accepted the recommendation.

Ambassador ARMACOST. It did come up at a breakfast. My only hesitation is in saying exactly who was there because with various principals traveling, I don't recall who was at that particular breakfast, whether it was the Secretary or whether it was Mr. Whitehead.

The CHAIRMAN. Thank you very much, Senator Sarbanes.

Senator Kassebaum.

Senator KASSEBAUM. Mr. Chairman, I regret that I had to be over on the floor earlier. I would like to yield not my time but my turn to Senator Boschwitz and Senator Evans before I ask my questions.

The CHAIRMAN. Certainly.

Senator Boschwitz.

Senator BOSCHWITZ. Mr. Chairman, thank you very much.

I apologize. I did not know there was a restriction on time for opening statements. There has not been before, but I will keep that in mind.

The distinguished chairman said in response to my opening statement that he wishes to avoid dangerous situations and he wishes to avoid the foreign involvements that are not supported by the American people. I thank you very much for this book, and I would point out that in the preface, which I have just read, you state, and I quote: "Few people, unfortunately, are interested in the intricacies of foreign policy."

I would say that my statement was directed at the fact that situations become more dangerous because we do not have even a semblance of bipartisanship left on the committee here, and that is where it all has to begin.

I certainly agree that the Kuwaitis probably play us like a violin. They go to the Russians and then they turn to us. Apparently the British have reflagged a couple of their ships as well, have they not?

Ambassador ARMACOST. There are two, I believe, Kuwaiti tankers under British flag.

Senator BOSCHWITZ. My question really is this. What kind of hearing would be having, Mr. Chairman, if we had not become involved?

Let us presume, for a moment, that the Kuwaitis had gone to the Russians, as they did, before they came to us, and then, after the Russians had agreed, they turned to us, and let's say we had said "no." I presume they would have gone back to the Russians and that the Russians probably would have agreed to flag, probably with alacrity, a number of additional ships in order to increase their presence in the gulf.

Then I wonder what kind of hearing we would be having here today. Perhaps because both sides on the committee here and in general seem to get a little polarized, we would be having a hearing on whether or not we are giving away the Persian Gulf to the Russians, and whether or not we should not be interjecting ourselves, and whether or not we should not be carrying forward what a great maritime nation needs to do in these instances and become involved in protecting the open lanes of shipping around the world.

The distinguished Senator from Maryland, who I see has left, points out the anomalies of foreign relations, the unpredictable nature of foreign relations, that this week we may be with somebody and the next week we may be with somebody else, against that first person.

You, Mr. Chairman, pointed out that only our interests remain constant; that our friendships and our alliances do not remain very constant, though some have remained more so over the years than others.

We certainly deal with a lot of people around the world who have very different agendas than we do ourselves.

But, as the Senator from Maryland pointed out, there are some anomalies. It may be that we are with the Iranians this week and against the Iranians next week. But the complexity of those relations once again, if I may use the term, underscores the need for a little bit more bipartisanship than we have seen around here.

So my question or my comment, my question to Secretary Armitage and Secretary Armacost is this. I don't want to be presumptuous. You should not be presumptuous and say what kind of hearing we would be having in the event we would not have done this. It's a kind of no-win situation. If we had not interceded, then it would have been said that we are giving up the gulf.

I can hear all the statements already—that it's a vital waterway, that this is where all the oil is, and as a matter of fact, their lifting costs in the Persian Gulf are 30 or 40 cents a barrel and ours are about $14, $15, or $16 a barrel, whatever they are. So they have enormous competitive advantages, and the idea of allowing the Russians to get into that area and gain some hegemony is certainly in contradiction to American interests.

So, if I may ask, we would have held quite clearly a hearing, but we would have held a very different type of hearing in the event the United States had done nothing and the Russians had expanded their presence in the Persian Gulf.

My question to you, gentlemen, is what do you think, in the event we had done nothing, would have occurred in the Persian Gulf?

Which way would the Kuwaitis have turned?

Ambassador **Armacost**. I think, from the sequence of discussions, it is clear that the Russians received a request, they responded promptly, they were willing to extend a protection to vessels either that were reflagged or rechartered. And they have proved willing to follow through.

Had we forsworn any decision, it is obvious that they would have taken on a much larger role, and that would have communicated, I think, a very large and I think very adverse signal to our friends in that part of the world and beyond the gulf.

Senator **Boschwitz**. I would ask Secretary Armitage to respond also.

Mr. ARMITAGE. On the one hand, the Soviets in the past have accused us of being militaristic in the gulf and wanting bases, et cetera, et cetera, which, as you so well know, is not the case.

But in this case, they would have been criticizing us, and are right now, as being unreliable friends and not responsive to friends' needs.

There is a very complex set of reasons as to why they are making this charge. Some of it has to do with our inability to supply arms. Other aspects have to do with some of the debate, which is so necessary in our society. But that is the Soviets' present charge, that we are unreliable.

Had we not gone ahead with the Kuwaitis, just as Mike suggested, it is my view that they would have brought truth to that charge of unreliability.

Ambassador ARMACOST. It is true, Senator Boschwitz, that they have acquired a limited role, even under current circumstances; that is, they have chartered these three vessels.

We have sought to prevent that from growing into a set of access arrangements through which they could refuel, resupply, replenish, and repair ships in the gulf. To date, there is a very important distinction that has been maintained by the gulf countries and their willingness to accord those rights to us and to deny them to the Soviets.

Senator BOSCHWITZ. I will come back to that in a moment.

Let's examine for a moment the British role there, because they have reflagged a couple of ships and they are escorting, you say, a number of tankers that are presently under their own flag.

Mr. ARMITAGE. They are not escorting, sir. They are protecting. Because they only have three warships, they do not escort as we envision in our protection plan. They more or less picket, but they call it protecting.

Senator BOSCHWITZ. Well, if they have three, we have a half dozen or so, is that not correct?

Mr. ARMITAGE. Yes, and under the protection plan, as you will see, contained in our detailed classified edition of the report to the Congress, there will be more than half a dozen ships.

Senator BOSCHWITZ. The British probably receive less of their oil, I presume, than we do, as a percentage. Even though our percentage is very low, they are an exporter.

Mr. ARMITAGE. They are net exporters.

Senator BOSCHWITZ. I think that they received some sweet crude, though very, very little.

Ambassador ARMACOST. They may get some specific product; but they are a net exporter of oil.

Senator BOSCHWITZ. Right. So they really have no cause for their own narrow national interest. If you want to judge it that way, as some people would have us judge it, they have no reason for being there either.

Ambassador ARMACOST. Well, they have historic relations in the region, as we do, and they assume a protective role for their flag vessels in areas where they are in some danger.

Senator BOSCHWITZ. Has the Kuwaiti offer, which will involve the reflagging of three ships and bring in the Russians in to that degree, is that an expansion of the Russian presence in the gulf?

Ambassador **Armacost**. They are not technically reflagging those vessels, Senator Boschwitz. They are chartering Russian ships.

So it is a slightly different arrangement.

In our case, if they were chartered, it would have the same effect from the standpoint of a defense obligation as reflagging, because we do not discriminate between those two arrangements.

This does represent an expansion of the Soviet role in the gulf. Yes.

Senator **Boschwitz**. What would you suppose would have happened, if I can posit this question, finally, in the event that we had done nothing?

Ambassador **Armacost**. Well, I cannot elaborate much on your own statement, Senator. I think you have it exactly right. There would be many accusations that we were simply abdicating a role in an area of enormous importance to the West, and, by default, permitting a Soviet foothold in an area which would enable them, over a period of time, to get a stranglehold on oil that is the lifeblood of the Western economies.

Mr. **Armitage**. What we would really be doing, I believe, is reversing a policy of eight Presidents, for 40 years.

Senator **Boschwitz**. Thank you.

I thank the chairman and I thank Senator Kassebaum again.

The **Chairman**. Thank you.

Senator Cranston.

Senator **Cranston**. Thank you, Mr. Chairman.

Fundamentally, is the main purpose of your policy in the gulf to maintain freedom of the seas and passage of oil?

Ambassador **Armacost**. Those are two of the fundamental interests, Senator Cranston, that we have maintained for a generation.

Beyond that, we have these two other interests: cultivating close relations with friendly gulf states and limiting, to the extent we can, the Soviet role in that important region.

Senator **Cranston**. Is our goal limited to freedom for U.S.-flagships or for all ships?

Ambassador **Armacost**. Well, we obviously, as a great maritime nation, would like to see all the flagships free to ply their wares in international waterways, but we have not assumed a protective function toward the ships of other nations.

Senator **Cranston**. Which ships carry Iranian oil?

Ambassador **Armacost**. Oh, they charter a variety of vessels. But I would have to check that and provide it for the record.

[The information referred to may be found in the files of the committee:]

Senator **Cranston**. Your statement, to which Senator Sarbanes referred, states Kuwait or any country can register its ships under the American flag if it meets normal requirements; or it can charter American flag vessels if it can work out a commercial arrangement.

What will we do if the ships carrying Iranian oil ask for the U.S.-flag?

Ambassador **Armacost**. Well, as I say, we do not discriminate among U.S.-flag vessels on the basis of the particular function they are carrying out. But I think you would find it unlikely that American-chartered vessels would volunteer for that run.

Senator **Cranston**. Well, it isn't an American-owned vessel, necessary. The Kuwaiti vessels are Kuwaiti-owned vessels. Suppose whoever owns the vessels carrying Iranian oil ask for American flags. I gather we would not object?

Ambassador **Armacost**. We do not discriminate, as I say, among U.S.-flag vessels on the basis of the particular function they are carrying out, at the present time.

Senator **Cranston**. Would we then feel obligated to protect those ships?

Ambassador **Armacost**. The Navy would protect U.S.-flag ships, I suspect. Yes.

Senator **Cranston**. Why do many U.S. owned ships in the gulf fly Panamanian, Liberian, or other flags, rather than American flags?

Ambassador **Armacost**. I am not an expert, and if I can, I would elaborate this for the record.

My supposition has been that they, for reasons that relate to tax benefits and the corporate laws of other countries, seek flags of convenience.

Mr. **Armitage**. In addition, Senator Cranston, our own safety and maritime requirements are so much more stringent than U.S. international requirements that it is very difficult, and expensive, for many companies.

Senator **Cranston**. In view of the attacks on shipping, why are they not now deciding it would be wiser to have an American flag and American protection?

Ambassador **Armacost**. I think they have presumably judged that the risks are still manageable and the financial or other benefits they secure as a result of foreign flags of convenience outweigh the dangers to their ships.

Senator **Cranston**. What have we done to seek international collaboration with us in protecting shipping in the gulf?

Ambassador **Armacost**. We have talked to our Western allies, those that have a tradition of military interest in that region and a capability to provide protection, about possibly augmenting their presence and coordinating more closely with us our respective naval operations in the region.

We have talked to all the Western countries about energizing their diplomatic efforts in the United Nations, to see whether or not we can bring the conflict to an end.

We have talked to other countries that have no military role in the region about financial contributions they could make to the stability of that region. That applies most particularly, of course, to Japan, which has constitutional impediments to playing a role, but has a large economic capability.

Senator **Cranston**. Have we specifically asked other nations to help protect shipping with us in the gulf?

Ambassador **Armacost**. We have not asked other nations to extend their protection to U.S.-flag ships. No. We have asked them to augment their presence. But the supposition has been to the extent the British increase their presence, it would be directed in the first instance to the protection of British ships, although the presence would, we suspect, have some influence on the likelihood of attack. As I said, the Iranians have been quite prudent in avoiding attacks against commercial vessels when warships have been in the vicinity.

Senator **Cranston**. What is the present degree and nature of U.S.S.R. naval military presence in the gulf?

Mr. **Armitage**. The chairman of the Joint Chiefs of Staff told me yesterday that there are now four minesweepers in the gulf, Soviet minesweepers, and a Kirov class cruiser, a guided missile cruiser, which is making its way to the Northern Arabian Sea.

There are additional Soviet fleet elements at Aden.

Senator **Cranston**. Are they escorting and protecting U.S.S.R.-flag ships in the gulf?

Mr. **Armitage**. They are, sir.

Senator **Cranston**. If they were to start protecting Kuwaiti ships, what would be the implications in terms of their present military naval strength in the gulf?

Mr. **Armitage**. We'd make the assumption that if they are going to escort or did begin to escort Kuwaiti ships, they would need some access. They would need places to bunker their ships and things of that nature. They would probably try to get access in return for that protection.

Senator **Cranston**. Why would they need that under those circumstances but not under present circumstances where they escort their own ships?

Mr. **Armitage**. Because they have only a few ships. They have four or five a month, Senator Cranston, as you recall, and they escort that many a month.

Senator **Cranston**. What factors inhibit them from increasing their presence in the gulf regardless of whether they are protecting Kuwaiti ships or not?

Mr. **Armitage**. There are access agreements with gulf nations. Thus far, they do not have access agreements and we do—not agreements, but access itself. This has been a limiting and inhibiting factor.

Senator **Cranston**. What is the status of the U.S.S.R. flagging? Have the Kuwaitis withdrawn their request to the Soviets?

Ambassador **Armacost**. As far as I know, Senator Cranston, they were seeking the reflagging of 11 vessels, and when we offered to reflag the 11, then the Soviet role became confined to the chartering of 3 tankers.

I do not believe they contemplate the reflagging of additional vessels. As was mentioned, two are already under British flag. The other nine do not normally sail in the gulf, and, therefore, reflagging is a moot issue.

Senator **Cranston**. Well, there is not now pending a Kuwaiti request for Soviet flagging, then?

Ambassador **Armacost**. Not to my knowledge.

No.

Senator **Cranston**. Is it the assumption of the administration that that request would be renewed if we did not proceed with the flagging with the American flag?

Ambassador **Armacost**. I suspect it would. Yes.

Senator **Cranston**. Re the War Powers Act, is it the administration's position that it is not likely that, as a result of flagging, U.S. forces will become engaged in hostilities in the gulf?

Ambassador **Armacost**. It is the position of the administration that the reflagging does not involve the introduction of U.S. forces into a situation likely to lead to imminent hostilities.

Senator **Cranston**. Was that based upon the administration's analysis of how the Ayatollah Khomeini, who is a rather unpredictable leader, to put it mildly, would behave in response to what amounts to the United States, viewed by him as the "Great Satan," intervening on behalf of Iraq?

Ambassador **Armacost**. Senator Cranston, it was based on the record available to us of Iranian action vis-a-vis American naval vessels and commercial vessels when our warships were in the vicinity. That is, the tangible evidence that we have to go on is one that suggests prudence, caution, and restraint. Obviously no one would make categorical comments about the mindset of the Ayatollah. But the evidence that we have of their military activity directed against American ships in the gulf has been a record of considerable caution.

Mr. **Armitage**. There are questions, Senator Cranston, about the Iranian order of battle, how full it is, and particularly the weapons that they have in their inventory, how good they are any longer. That was part of the analysis.

So your statement about unpredictability is correct.

Ambassador **Armacost**. I don't know whether you anticipate a closed hearing, because those are issues also—as the analytic thought that went into this—that could readily be gone into in executive session.

Senator **Cranston**. What is the mission of the ships that we presently escort through the gulf?

Ambassador **Armacost**. I'm sorry?

Senator **Cranston**. What is the mission of ships that we presently escort and protect in the gulf?

Mr. **Armitage**. They are primarily MSC, Military Sealift Command, and they occasionally deliver goods, and sometimes even military goods, but not for Iraq; for instance, shipments to Bahrain of purchases under FMS and things of that nature, Senator Cranston. Principally, however, they are MSC tankers picking up jet aviation fuel from Kuwait's refinery.

Senator **Cranston**. We have not been escorting ships up to now that have been helping Iraq.

Mr. **Armitage**. We have not been escorting ships that have been helping Iraq.

Senator **Cranston**. So the assumption that we are making is based upon circumstances quite different from the circumstances that would develop if we start escorting ships carrying oil from Iraq.

Ambassador **Armacost**. I'm not sure that is true, Senator Cranston. There may well have been American ships that were basically chartered vessels that were carrying oil from Kuwait. In that sense, it would be comparable to the mission that these reflagged vessels would undertake.

Senator **Cranston**. From Kuwait to where?

Ambassador **Armacost**. Well—wherever.

Senator **Cranston**. That's not to Iraq? I mean, that is not Iraq oil?

Ambassador **Armacost**. No, no. The Iraqi oil, by and large, is now delivered by pipeline through Turkey.

Senator **Cranston**. Thank you very much.

Thank you, Mr. Chairman.

The **Chairman**. Senator Evans.

Senator **Evans**. Thank you, Mr. Chairman.

First, I guess the figures are accurate that 5 to 6 percent of U.S. oil currently comes from this particular source. Is that essentially correct?

Mr. **Armitage**. Yes, Senator.

Ambassador **Armacost**. Yes, sir.

Senator **Evans**. Some seem to think that that is such a low percentage that the United States would not be greatly affected by a serious disruption of oil from the Persian Gulf.

Would you agree with that statement?

Ambassador **Armacost**. Well, we would be affected in the sense that there is one world oil market, there is one world oil price. To the extent there is disruption, we would feel its effects, though perhaps secondary effects, rather than disruption of the supply on which we depend.

Mr. **Armitage**. Even more, I think there is something you can put your arms around, Senator Evans.

In 1973, the oil shock was caused by a 5 percent disruption in the world availability, and that quadrupled prices in the United States.

The 1979-80 shock was based on the specter of disruption, and that doubled prices in the United States, the specter alone.

Senator **Evans**. So there is no question in your minds that a serious disruption of oil from the Persian Gulf, even though only 5 to 6 percent of it comes directly to the United States, would have serious, dramatic, and immediate economic implications for the Western world and the United States?

Ambassador **Armacost**. Absolutely, yes.

Senator **Evans**. It is my understanding that 17 percent of the total Western World's oil supply comes through the Persian Gulf.

Is that approximately correct?

Ambassador **Armacost**. That sounds right, yes.

Senator **Evans**. And certainly a 17 percent reduction in supply to the Western World would be a far greater disruption than in either of the two previous oil shocks.

Is that also correct?

Ambassador **Armacost**. Yes.

Senator **Evans**. It seems to me very clear that anyone suggesting that American interests are not involved, or that we would not feel the disruption if one were to occur, is just simply not supportable.

With that, would we currently protect and escort an American-owned, American-flagged, American-crewed vessel that was headed into the Persian Gulf to pick up oil from Kuwait?

Ambassador **Armacost**. Yes, we would.

Senator **Evans**. All right.

What is the procedure for Kuwait chartering an American vessel to carry oil from Kuwait to other nations? That is something that they are free to do, independent of any particular, or at least any direct U.S. governmental action?

Ambassador **Armacost**. I doubt that it would come to our attention, in the first instance, Senator Evans. They would make a commercial transaction with a shipping line, and there would be yet one additional U.S. ship transiting the gulf, but it would not automatically come to our attention.

Senator **Evans**. However, if that were then chartered, would we under current laws and current policy protect and escort that ships?

Ambassador **Armacost**. We would.

Senator **Evans**. So we have two circumstances already where we would consistently protect shipping of the very kind we are now talking about—one, if it is an American-owned ship, and the other, if it is an American-chartered ship, with the second category being one that we essentially have no direct control over, that is, a commercial transaction between the Kuwaitis and whatever company they choose to charter from.

Is that correct?

Ambassador **Armacost**. That's correct.

Senator **Evans**. So, regardless of whether we were to go through this reflagging, it is perfectly appropriate or possible, at least, for the Kuwaitis to achieve essentially the same thing through either of these other two methods. Is that also correct?

Ambassador **Armacost**. It would be possible, yes.

Senator **Evans**. Well, it seems to me that we are in a situation where we are clearly committed to protecting under whatever circumstances American shipping or American reflagged ships, or however the oil comes out of Kuwait.

I begin to wonder what all the smoke is about when it is possible to do precisely the same thing even without the reflagging. So it becomes a matter then of what are the alternatives.

I mention that we've talked about the Soviets. Let me follow a little bit the questioning of Senator Boschwitz.

What if we said "no" to the Kuwaitis? In your view, would they have asked the Soviets then to reflag the 11 vessels that we are now talking about?

Ambassador **Armacost**. They had asked, as I recall. In January, when they asked our Embassy if reflagged Kuwaiti vessels would enjoy United States naval protection, we learned that Kuwait had already had a similar offer from the Soviets; that is, if they chartered vessels, the Soviets would afford them naval protection.

Senator **Evans**. If we were to turn them down, do you believe that the chances are good that the Kuwaitis would ask the Soviets to reflag in order to provide some additional protection for their oil flow?

Ambassador **Armacost**. I would expect that would be a very prominent option that they would consider. Yes.

Senator **Evans**. Let's assume for the moment that that happened and the Soviets have now reflagged 11 vessels and they are sailing into the Persian gulf. In your view, would the Iranian reaction to Soviet reflagging be any different or have any different consequences than their reaction to an American reflagging?

Ambassador **Armacost**. I doubt it, from Iran's standpoint.

Mr. **Armitage**. They have consistently said that they don't want the superpowers involved at all.

Senator EVANS. So, presumably, the Soviets would be as subject to an attack from Iran as the United States.

Is that correct?

Ambassador ARMACOST. Two of the Soviet ships have been attacked. Actually one encountered a mine which, I guess, had escaped its mooring, and another apparently was attacked by the revolutionary guard.

Senator EVANS. Assume that there was this reflagging and that 11 vessels are under Soviet flag and Iran chooses to attack those ships.

Let me back up.

If we reflagged and the Iranis attacked those ships or the escorts, under our rules of engagement, what would we presumably do?

Mr. ARMITAGE. First of all, the rules call for your attempting every measure to make the attack unsuccessful; that is, defense.

Second of all, there are options for response, and, depending on what the action was, it might be an option that the commander on scene could exercise himself or it may be something that would be referred to the National Command Authority, Senator Evans.

Those options have all been discussed at length in the administration.

Senator EVANS. Let's assume that the attacks were consistent and multiple. Are the chances pretty good at that point that there would be retaliatory action against some bases or something?

Mr. ARMITAGE. Well, it is hard for me to make the decision. It is very realistic to expect that the commanders are going to do everything they can to stop those attacks, and if they are multiple, to stop the multiple attacks, whether they are by high-speed speedboats, which the Iranians now have, or whether by one of their few remaining aircraft.

Senator EVANS. Let's turn now to the Soviets. If they reflag and Iran were to attack their ships under those same circumstances, perhaps regularly or on a multiple number of occasions, presumably the Soviets would react. Their rules of engagement probably are not much different than ours.

Would you care to comment on that?

Ambassador ARMACOST. I don't know what their rules of engagement are, but they have issued a public statement which is full of warning to the Iranians.

Mr. Vorontsov, their Deputy Foreign Minister, was in Tehran from the 12th to the 15th. We are not privy to his conversations, but I would be very surprised if it did not include some very strong reminders to the Iranians of the consequences of attacking Soviet ships.

Senator EVANS. There has been a concern expressed around this table about the potential escalation of hostilities, or perhaps our entering into hostilities with Iran as a result of this escalation.

Do you think that there would be some chance that if the Soviets were to reflag and get into the same kind of circumstance, there would be an escalation of hostilities between Iran and the Soviet Union?

Ambassador ARMACOST. I hesitate to say "escalation of hostilities" because what has happened has been one mining incident and one attack of uncertain origin, but at least the stuff that we have read indicates probably from the revolutionary guard, with what command authority I am not certain. But, clearly, it would be a negative factor and an irritant at a minimum in their relationship with Iran.

They have principally been a supporter of Iraq.

Senator EVANS. What would we do under these circumstances if we saw an escalating conflict between the Soviet Union and Iran, which grew out of this kind of escorting? It is the same kind of concern that has been expressed in the United States, getting into escalating hostilities. What if the Soviet Union were to do that? What would we do then?

Ambassador ARMACOST. I am a little at a loss in these hypothetical cases, Senator Evans. They are real issues.

I think in the first instance it would punctuate the interest we have in bringing this conflict to an end. I think it has been clear in recent months that, as the Gulf war has escalated, it has reminded the great powers of their shared interest in seeing whether or not a conflict, which has gone on for 6 years and has involved incredible carnage and threatens to expand geographically, should be brought under control.

This is why I think we have had greater success than people expected in mobilizing support from the other permanent members for a resolution which would have some teeth, to call for a ceasefire and to get those armies back to their recognized boundaries.

Senator EVANS. Mr. Chairman, even though the questions were hypothetical, they were designed to show that we might very well get ourselves into bigger trouble and into larger danger by inaction rather than action under the current circumstances.

Ambassador ARMACOST. Right.

The CHAIRMAN. Thank you very much.

Senator Kerry.

Senator KERRY. Mr. Chairman, thank you.

I did not have the privilege of an opening statement. I am not going to take the time here for that, but I thought Senator Boschwitz' comments were really off the mark and deserve some kind of response, Mr. Chairman.

I am not going to go into all of the history of those things from the ABM Treaty on that he addressed with respect to supposed partisan retreats. But it seems to me that the Senator is missing the fundamental point here, which is that this Congress does not want to repeat the mistakes which he and others participated in with respect to Lebanon.

I think that it is our right and our responsibility to make some tough judgments about what the policy risks are that we make here and balance them against the overall objectives, and that we ought to be measuring those objectives.

There is not one iota of retreat. It is simply the question of what is the best method of achieving some goals.

We went into Lebanon with the understanding that we were escorting the PLO out. That got translated into a status quo support of the Gemayel government, which ultimately resulted in the loss of lives of Marines.

I think it is our responsibility here to make the judgment that we are making, and I don't think it is appropriate to try to bully any section of the Congress into believing that the issue here is one of retreat or nonretreat.

I think it is very important that we try to judge what the real goals of your policy are and what the means of achieving them are, and whether or not there is a nexus between the two that is worthwhile.

I am still somewhat at a loss in defining your policy. I am not sure that you have totally defined it.

I hear national security from Secretary Armitage. I hear freedom of navigation. I hear free flow of oil. It seems to me freedom of navigation and free flow of oil here are one and the same.

Obviously we have also heard the question of credibility raised here—unreliability, as it has been stated.

I would like to balance some of those, if I can, in the brief period we get to question here.

The first question about this policy is this. When was Kuwait contacted initially, offering to reflag?

Ambassador **Armacost**. They raised their initial concern, the concern about shipping was expressed publicly on November 1 and on December 10, they, for the first time, came to us to inquire about the requirements for reflagging.

Senator **Kerry**. Who was the request to?

Ambassador **Armacost**. The Coast Guard. I guess they came to the Defense Department.

Admiral **Kime**. They came directly to the Coast Guard, Senator, by telex on December 10 of last year.

Senator **Kerry**. When did we respond to that?

Admiral **Kime**. We responded with a Telex on the 25th of December. In their initial telex, they had asked for information on a routine basis about what are our established procedures for reflagging tankers. We sent them a return telex on Demcember 25, saying we have the information, and asking where should we send it.

They neglected to give us an address. We received that, and the information was mailed to them on January 12.

Senator **Kerry**. Let me perhaps shorten this a little bit.

When did we respond to them that we would reflag? We made the offer to reflag specifically when?

Ambassador **Armacost**. January 29, Senator Kerry.

Senator **Kerry**. At that time we said we would reflag their ships?

Ambassador **Armacost**. They could reflag or charter ships if they met the technical requirements.

Senator **Kerry**. Who specifically contacted them and said that?

Ambassador **Armacost**. That was a message that went back through the embassy, I believe. The Ambassador communicated that, I expect, on behalf of the administration.

Senator **Kerry**. Who communicated it, who authorized it from the administration?

Who delivered it to the Ambassador?

Ambassador **Armacost**. It was an interagency decision.

Senator **Kerry**. Well, it was my understanding that on May 19, when you announced publicly your intention to reflag, that there had, at that time, been no interagency meeting to approve that reflagging at that point in time.

Ambassador **Armacost**. No, that is not correct.

There had been interagency discussions in January and February.

I am looking for the date of the meeting to which both Mr. Armitage and I referred earlier, where this was taken up at one of the regular Wednesday breakfasts. I believe that was in early March.

Senator **Kerry**. Was there an interagency meeting discussing the impact of reflagging subsequent to the *Stark* incident?

Ambassador **Armacost**. After May 19? I don't recall.

There have been a number of interagency meetings, and I would have to go back and consult the minutes to see exactly what the focus was. But there was a lot of discussion, obviously, of the *Stark*, and that did include a very detailed discussion of what was involved in reflagging.

I think it is fair to say that after the *Stark* incident, although the uniform judgment of all those who looked carefully at it was that it was an accident, the reaction to that attack was to look very carefully at the military requirements associated with the escorting of a somewhat larger number of U.S.-flag vessels in the gulf.

The discussions after the 19th focused very heavily on what the nature of a protective regime would be, what the rules of engagement would be, what kind of augmented capabilities might be involved, what we should ask our allies to do—the whole set of issues that you all have raised.

Senator **Kerry**. Last night, on ABC News, the Sheik of Kuwait said that the United States had proposed the reflagging and came to them and suggested that.

You are saying to me that that particular contact was made by the State Department through the Ambassador?

Ambassador **Armacost**. I'm sorry—which particular communication to the Kuwaitis?

Senator **Kerry**. That we would reflag. The commitment. What I am getting at is the commitment to reflag was made in what context?

Mr. **Armitage**. We made that commitment through the Embassy, and then the Kuwaitis came back to us.

I might add that this is in the chronology, but I won't take the time to read it all.

Senator **Kerry**. In the classified report?

Mr. **Armitage**. Yes, sir, an entire chronology. But this portion is important.

They came back to us and said, "Well, we're going to ask you to do six and the Soviets to do five." At that time, we rehuddled the interagency group to determine what our response would be, and that was the breakfast to which Mr. Armacost referred earlier.

Senator **Kerry**. OK.

Let me come back to my original sort of premise, weighing the risks against the policy.

What is the fundamental reason we are doing this?

Is it to deal with the reliability issue? I have a hard time believing that the flow of oil has been disrupted.

Ambassador **Armacost**. I tried to say, Senator Kerry, in my opening remarks that, while we have these fundamental interests in the flow of oil and freedom of navigation, we do not discern an immediate challenge to those interests. But we do recognize that in the event the Soviets acquire a very large protective role in the gulf, that changes the equation considerably, and it places in peril those interests which have been durable interests of the United States. I tried to say they are not immediately challenged in the sense that a large percentage of the oil is now subject to attack, or that we assume any large responsibility for the freedom of navigation for foreign flagships.

The issue for us was crystallized by a specific request from a friendly country that had been targeted for harassment and intimidation and which was offering or was approaching the Soviet Union as well as ourselves for protective arrangements.

It is that which crystallized the issue and it is that which we were seeking to respond to. We are aware that if they got a foothold in the gulf over a period of time, it could bring peril to these larger interests of the Western stake in the free flow of oil from the gulf.

Senator KERRY. Is it fair to say that that question of reliability in the minds of the Kuwaitis and others is heightened by virtue of the sale of arms to Iran?

Ambassador ARMACOST. Oh, I suspect it was. Yes.

Senator KERRY. Well, then, in terms of risk, as a Congress we are being asked to take these 11 Kuwaiti ships, which have this minimal impact on the flow of oil, where you have some 219 Iraqi incidents against ships, measured against some 95 Iran incidents against ships, and because of an issue of reliability, raised and heightened by the sale of arms to Iran, and put ourselves at even greater risk in the Persian Gulf.

Is that a sensible way to arrive at a policy? Does it make sense?

Ambassador ARMACOST. Well, I think you are approaching it properly in the sense of weighing the risks and the obligations. That is what we have tried to do as we have cased this out.

Kuwait was quite specifically targeted for harassment and intimidation. This represents not a provocation by the United States but an escalation by the Iranians. If they succeeded in this tactic, then it is quite possible that they would take the initiatives to direct this tactic at other countries in the gulf.

Senator KERRY. But they have not succeeded, have they?

Ambassador ARMACOST. Pardon?

Senator KERRY. The question is they have not succeeded, have they?

Ambassador ARMACOST. In part, I think, because we have——

Senator KERRY. Because there is a scarcely perceptible interruption in the flow of oil.

Ambassador ARMACOST. Well, I think in part it is because we have been responding to this request. I don't know how to explain the absence of attacks over the last 35 days. There have been none. I don't think one should assume there will be no further attacks. But perhaps it reflects a disposition on the part of the parties to the gulf war to take a long look and to weigh the risks themselves.

But the other side of the equation, Senator Kerry, was the question of whether or not flagging of some additional vessels—when the option was available to them, as Senator Evans indicated, to charter United States vessels, we would not have interposed an objection—whether the assumption of greater risks is all that great. On the basis of our judgment that the Iranians have not displayed recklessness or provocative behavior against United States warships and United States commercial vessels, that seemed, in the balance of risks, that seemed one that was worth running.

The CHAIRMAN. Thank you very much.

Senator Kassebaum.

Senator KASSEBAUM. Thank you, Mr. Chairman. If I may, I would follow up on that for a moment.

Isn't it correct that more than half the attacks on the tankers since 1981 have been on the part of Iraq?

Ambassador ARMACOST. Yes. It is basically since 1984. I think probably over 60 percent have been Iraqi inspired.

Senator KASSEBAUM. It seems to me what really is at question is clear objectives, not only in why we are getting in, but in how we get out, and the limitation of what we should or should not do to best serve our interests and the interests of the gulf nations.

I would just say, Mr. Chairman, that I think there are several questions that really would be pursued, I know that I would like to pursue, that should only be done in closed session. Obviously we can ask them individually, but I think it might be useful to us as a committee to do that.

Prior to that, though, I would just like to sort through and try to understand a little bit, because I think it is important, the players.

The Soviet Union is an ally of Iraq, correct?

Ambassador ARMACOST. They are a principal military supplier of Iraq, yes.

Senator KASSEBAUM. And Kuwait is also an ally of Iraq.

Ambassador ARMACOST. Well, the Kuwaiti situation is a little more ambiguous in the sense that they proclaim an official neutrality. It is certainly the case that they are a nonbelligerent. They don't provide arms to Iraq. They are not involved in the hostilities. They did not support the initiation of the war, and they provided assistance, primarily financial, only after Iran invaded Iraqi territory. That is, when the tide of battle shifted, they clearly perceived the danger to their own security from an Iranian victory, and they have provided subventions to Iraq in recent years, as have virtually all of the other moderate Arab countries in the gulf.

They are not, however, regarded as a belligerent, and I believe Tehran has not even so regarded them.

Senator KASSEBAUM. Well, we essentially have tried to be neutral as well, is that not right?

Ambassador ARMACOST. We have tried to be neutral. There have been some transgressions, and I am not here to defend those. But what I would say is that we recognize that our principal interest is bringing the war to an end without a victor and without impairing the territorial integrity of the two countries.

This is because we recognize that Iraq, at this juncture, has no chance of achieving victory. There is a risk that Iran could prevail. We have, despite our formal neutrality, organized efforts for some years designed to deny Iran arms supplies.

I think it is clear those did not succeed completely.

We feel they had some effect up through 1985, at least, as a result of making it more difficult for them to get supplies, slowing down delivery times, increasing the price, closing off some suppliers. It was not perfect, but it was designed precisely to put some pressure on the country which not only possessed the capacity, perhaps, to prevail, but was the intransigent party which refused all efforts at mediation and negotiation to end the conflict.

So, again, though we preserved our neutrality, it is clear that the thrust of our policy was designed to put pressure on Iran to bring the war to a close. That would obviously be the purpose of our resolution at the U.N., to, in effect, multilateralize Operation Staunch.

Senator **Kassebaum**. Well, in some ways, I would think the Soviet Union must be somewhat gleeful that we have, as a matter of fact, all of a sudden decided to do their work for them, as far as the reflagging of the Kuwaiti tankers.

Ambassador **Armacost**. Well, I think, Senator Kassebaum, other things being equal, they would have preferred an even larger role and they would have, I think, gloated if we had refused to play any role because they would have attempted to capitalize on this as evidence that the United States was not willing to stand up to its own obligations, and they would play on it in diminishing the confidence of smaller countries in the gulf, and perhaps other areas, in the U.S. capacity and our willingness to support our friends.

Senator **Kassebaum**. Oh, I don't doubt for a moment the Soviet interest in the gulf. I don't think we should in any way, and I don't think anybody on this committee would underestimate the Soviet interests in the gulf, and our own important objectives there.

But somebody stated on the panel that we have been accorded rights in the gulf, access rights, which the Soviets have not had.

I would like to ask you what is Kuwait's response to our request for base access rights in Kuwait?

Mr. **Armitage**. I used the term, Senator, "rights," and I changed it then to be just access. We do have access to Kuwaiti ports. We do go in and in normal times are able to put ashore there. We sometimes go on liberty, buy fuel, et cetera.

Under the present agreements, as Mike indicated earlier, Kuwait has granted us gratis fuel and things of that nature.

The entire list of what we have discussed with our gulf friends and others is contained in the classified report in toto.

Senator **Kassebaum**. These are some things that I think it may be important for us to discuss in closed session.

Mr. **Armitage**. I completely agree. And they are in the classified section, every country, one by one.

Senator **Evans**. I wonder if you would yield for a quick question?

Senator **Kassebaum**. Yes.

Senator **Evans**. To make it clear, the Soviets do not even have access to ports in those same countries, is that correct?

Ambassador **Armacost**. I believe that's right, yes.

Senator **Kassebaum**. You believe it's right? The Soviets do not have access at all in Kuwait?

Ambassador **Armacost**. Not for military vessels.

Senator **Kassebaum**. We have said that we would consider a preemptive strike if the Chinese place the Silkworm missiles in Iran. Is that correct?

Mr. **Armitage**. The Chinese have sold the Silkworm to Iran, and if the Iranians were to deploy it, we have said that would escalate the threat in the area.

The discussion about a preemptory strike came in response to a hypothetical question, and, truthfully, the answer is this is one of the options that any military power has.

We further went on to say that a strike on the Iranian land mass is something of enormous import and not something that would be a decision lightly arrived at, and certainly one, all things being equal, that one would want to talk to the Congress about.

But no decisions have been made here as to what will happen if missiles are deployed.

After all, there is a question of what a sovereign country has in the way of rights in deploying weapons on her own territory.

Senator **Kassebaum**. That's true. And, of course, our reflagging of the tankers would not necessarily have a role to play in that decision. I mean, if we would decide that those missiles were placed there and it was necessary to take them out, that would not be done from any of our carriers in the gulf. It could not be done. Is that correct?

Ambassador **Armacost**. I think probably that is one of those areas of discussion, Senator Kassebaum, that probably should be confined to executive session.

I would simply say that, as far as I know, the Iranian interest in the Silkworm missile predated any discussion of reflagging of Kuwaiti vessels.

Senator **Kassebaum**. I am just merely trying to get at exactly where our planes can take off and land.

Ambassador **Armacost**. We do not keep a carrier in the gulf, per se. We have never done that. They are down south of the Gulf of Oman.

Mr. **Armitage**. In the Northern Arabian Sea.

Senator **Kassebaum**. But, again, I think that these are some things, plus something that I think is of great interest that must be explored and it really should not be in open session; that is, what exactly our response is to unconventional attacks, terrorist attacks. You mentioned the high-speed boats that the Iranians have.

These are all things that I think add to the picture of trying to understand clearly the parameters of the role there that we are willing to commit ourselves to and undertake. If we are going to be successful, we have to have the will and commitment to stick with a decision that we all clearly understand.

Ambassador **Armacost**. We will be happy to come up and discuss those in executive session.

Mr. **Armitage**. Or privately.

The **Chairman**. I would interrupt here to say that I think the suggestion of the Senator from Kansas and the ranking minority member that we should have an executive session is a good one.

I would suggest that we meet tomorrow morning at 10 o'clock, if you are available, in S–116.

Mr. **Armitage**. If it meets with your approval, I have other testimonies also. Could I have a substitute come, perhaps from the Joint Chiefs of Staff, I think, to get at particularly the things that Senator Kassebaum and Senator Helms are interested in?

Senator KASSEBAUM. I yield any time I have remaining, Mr. Chairman.

Senator EVANS. Mr. Chairman, I think the idea of a closed session is a fine one. I would hope that we could at least have some inquiry of the various Members to discern a time that would be most convenient for the most number of Members.

I know that we all run into conflicts.

The CHAIRMAN. Yes, we do, and I have a markup myself tomorrow. I have learned that you really have to be quite arbitrary because whatever happens, it is going to be inconvenient for somebody. It just seems that 10 o'clock tomorrow morning is such that people could come in and out, and I would be inclined to move ahead on it.

Senator KASSEBAUM. I yield the balance of my time, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Sanford.

Senator SANFORD. What were our purposes, our stated purposes in the gulf, let's say prior to the middle of December?

Ambassador ARMACOST. I think they have not changed, Senator Sanford. They were to protect the oil lifeline to the West. They were to protect freedom of navigation. They were to limit the Soviet security role in the region. They were to cultivate friends among the gulf Arab moderate countries.

Senator SANFORD. We were engaged in protecting the sealanes, weren't we?

Ambassador ARMACOST. Indeed. We have had a protective mission there for about 3 years. Since the shipping war started in 1984, the U.S. Navy has been more active in the gulf and has assumed some protective responsibility for commercial vessels flying the U.S. flag.

Senator SANFORD. Just those flying the U.S. flag?

Ambassador ARMACOST. Yes.

There have been occasions, I think, only a couple of exceptions, where we have provided protection for non-U.S.-flag vessels that were carrying FMS equipment, U.S. equipment, to friendly countries in the area. But I think the exceptions would be limited to one or two.

Mr. ARMITAGE. There were two exceptions, Senator.

Senator SANFORD. We would not protect a British tanker?

Ambassador ARMACOST. Normally we do not. No.

The British fleet is there for the purpose of extending protection to their own vessels.

Senator SANFORD. We would not have protected a Japanese tanker?

Ambassador ARMACOST. We have not responded to attacks on third country shipping with military responses. No.

Senator SANFORD. Has a Japanese tanker been attacked yet?

Ambassador ARMACOST. There have been Japanese tankers, yes.

Senator SANFORD. Have they made any request to us for protection?

Ambassador ARMACOST. No, they have not.

Senator SANFORD. Do they have any protection?

Ambassador **Armacost**. No. As I say, they calculate the risks in transporting oil out of the gulf. Their needs are very great and to date, the risks have seemed to them manageable, I judge.

Senator **Sanford**. Well, the United States tankers that we have been protecting carry what percentage of the oil from Kuwait? Is it substantial?

Ambassador **Armacost**. Well, the U.S.-flag vessels are not only tankers. I would have to get the figure. I don't know what the percentage of oil would be. We have had Military Sealift vessels that have gone in, I think, about four a month. And I don't know that they are carrying oil.

Mr. **Armitage**. No. In a few cases, Senator, they are carrying FMS equipment for either Kuwaiti, not for transfer to Iraq, but for Kuwait, purchased here in the States, or for Bahrain.

Senator **Sanford**. How many tankers are involved in the gulf today?

Ambassador **Armacost**. Oh, there are more than 600 per month that transit the gulf, so it is a pretty heavily populated area.

Senator **Sanford**. And we will be protecting only 11 of them?

Ambassador **Armacost**. Well, we have other U.S.-flag vessels that are going in now. But the numbers are quite small—I think probably 8 to 10 a month.

Senator **Sanford**. So whatever risk this is, the number of Kuwaiti ships that we now bring under our protection is a very, very small percentage of the shipping and the oil?

Ambassador **Armacost**. That is correct.

Senator **Sanford**. So when you are looking at risk, we are really not giving much protection in exchange for whatever added risk this brings to us.

Ambassador **Armacost**. Well, you can look at it that way, or you can look at it in terms of the limited liability of our commitment.

I think there has been a misperception among the public that we are assuming the responsibility for protecting all shipping in the gulf. We do not assume that obligation. Quite the contrary. We limit our protective regime to U.S.-flag vessels.

This would increase the number of U.S.-flag vessels. But it still, as you say, represents a very small proportion of the ships.

Senator **Sanford**. We really are not doing much to protect the flow of oil, in spite of what the Secretary of Defense says about the need to protect the flow of oil to the world. We really are not doing much to protect it, are we?

Ambassador **Armacost**. Well, at the moment, while we have a vital interest in that oil, the oil flow is not imperiled in the sense that any significant percentage of it is coming into danger, because a limited percentage of ships are attacked. Those attacked have suffered, to date, modest damage.

This does not mean that the interest is not important. It means that though it is not immediately imperiled, we felt the assumption by the Soviets of a substantial, protective role in that area could bring it over time in peril because a country which does not share an economic dependency on the region would be in a position to interrupt potentially the flow of resources to ourselves and to our Western friends.

Senator **SANFORD**. Do you anticipate that we might take an expanded role in protecting the flow of oil, so that we would begin to protect all of it?

Ambassador **ARMACOST**. No.

I think if the Strait of Hormuz were impeded or closed, then that would bring into play a general interest, which we share with others, in reopening the strait. We would take a very large role, I suspect, in that undertaking, or we would expect others to join in.

But I reiterate, at the moment, that we are not assuming responsibility for non-U.S.-flag vessels and the flow of oil has been, by and large, getting through.

Our interest here was in responding to a request from a friendly country that was particularly targeted for intimidation at a time when they offered our adversary, our global adversary, a larger role in the protective regime than we thought prudent.

Senator **SANFORD**. So our motivation was primarily in response to the fact that the Soviets had responded?

Ambassador Armacost. Our motivation was very heavily influenced by the fact that they were an alternative, to whom the Kuwaitis could turn, and the fact, I think, that the Kuwaitis have been a friendly country. They have been very hospitable to Western interests, they are a big oil supplier, and they have stood up to intimidation and terrorism in a very admirable way.

Senator **SANFORD**. Could we have protected their shipping without flagging their ships?

Ambassador **ARMACOST**. If they had come and chartered U.S. vessels, the effect, as far as U.S. protection, would have been the same, Senator Sanford, because the Navy would not distinguish between U.S.-flag vessels on the basis of whether they were chartered or reflagged. They would simply see the flag.

Senator **SANFORD**. Could we, by Executive decision, have decided that we would protect ships with the Kuwaiti flag?

Ambassador **ARMACOST**. We could have done that. But the effect, in terms of precedent, would have been far, far more wide ranging.

Senator **SANFORD**. Why?

Ambassador **ARMACOST**. Well, any number of other countries, who wished to reduce the degree of risk to which their ships are exposed, might have come to us and asked for comparable treatment.

Senator **SANFORD**. Well, they could, could they not? They could ask us to put the flag up.

Ambassador **ARMACOST**. They could. But I think the precedent might be most——

Senator **SANFORD**. To put the flag up without any real restrictions in terms of what we normally require.

Ambassador **ARMACOST**. It could be done. Yes, it is true. Since 1981, some 50-odd vessels have been reflagged to the United States. I cannot identify the country of origin, but that was not a political issue.

In this case, a country was asking for more than just a routine reflagging of one or two vessels, so it was treated slightly differently.

Senator **Sanford**. I think you answered that question fairly well, that we were prompted into this because of action by the U.S.S.R., or otherwise we probably would not have done it.

Ambassador **Armacost**. We had to respond to the choices that appeared open at the time, and this course of action appeared to us to balance our obligations and risks in the optimum way.

Senator **Sanford**. You have talked about what we would do and what we have done in the way of planning and thinking about alternative actions and what the commander on the scene could do.

Suppose two of these ships are sunk on successive weeks? Where would we be then? What would we be doing? What would you be testifying about?

Ambassador **Armacost**. We would probably revise our assessments of the risks.

But at the moment, as I have said, on the basis of the record to date, the attack on a U.S. vessel, a Navy vessel, appears to all those who have investigated it to be an accident, and Iran has conducted itself with caution in relationship to U.S. military vessels.

Senator **Sanford**. Now you said that the Soviets had given rather stern warnings to Iran not to interfere with anything that they were protecting.

Ambassador **Armacost**. I have said that recently they have made public statements indicating they would respond to any further attacks on their flag vessels, and I have been surmising that when their officials have been in Tehran, they probably reiterated that. I don't know that for a fact.

Senator **Sanford**. Well, so far you have indicated that we would respond with appropriate action. But have we given any stern warnings as to what we might do?

Ambassador **Armacost**. We have tried to communicate with clarity the certainty that we would respond, without trying to specify the precise character of our response, Senator Sanford.

We want people to understand that if American naval vessels anywhere in the world are attacked, we will respond to that. And to the extent they assume a protective mission, then they have to extend their defensive role to covering those ships under their protection.

Senator **Sanford**. Well, isn't the vagueness of what we might do a danger in itself?

Isn't the lack of firmness or isn't the lack of our knowledge of exactly what we would likely do, does not that kind of indecision put us back into a Lebanon situation?

Ambassador **Armacost**. I think you can argue this both ways. The theory of deterrence is something that is argued both ways—whether or not it is the uncertainty of a certain response, or the uncertainty of the precise character of a certain response that deters, or something else people can argue in the abstract. But we think it is important that other nations understand that there will be a response if American ships are attacked.

But we need to look at the circumstances in the case to decide precisely what to do.

Senator **Sanford**. Thank you.

Thank you very much, Mr. Chairman.

The **Chairman**. Senator Adams.

Senator ADAMS. Thank you, Mr. Chairman.

Secretary Armacost, where were you in February 1965? Were you in the Government?

Ambassador ARMACOST. No. I was teaching on a college campus.

Senator ADAMS. Secretary Armitage, where were you in February 1965? Were you in Government?

Mr. ARMITAGE. I was in the Naval Academy, sir.

Senator ADAMS. All right.

I think I know where you were, Admiral, since I was Secretary of Transportation. I have a pretty good idea that you were in the service at that time.

I arrived in Washington in January 1965, which was 2 months after the Gulf of Tonkin, and I heard testimony incredibly similar to what I am hearing now about whether or not we were in hostilities.

To refresh your memory, if you were not in Government, while they never actually proved an attack, two motorboats were supposed to have attacked our ships in the gulf. That cost us 50,000 lives and divided the country.

Were you in Government in 1973, when we passed the War Powers Act?

Ambassador ARMACOST. I was, yes.

Senator ADAMS. Mr. Armitage?

Mr. ARMITAGE. I was still in Vietnam in 1973.

Senator ADAMS. All right.

Now, I am interested, and I do not want to get into the details of military actions and so on, but the thing we lacked, and I think both of you understand this, if you were in Government in 1973, was that we never had a consensus in the Government, bipartisan or otherwise, about what we were doing in Vietnam. We called it an incident, a police action, and everything imaginable.

Now I want to know why it is that this administration does not take the law we passed in 1973 to prevent this precise repeat of what happened in Vietnam, the War Powers Act, and simply invoke it?

We are in a Gulf. We have been attacked. You have both talked of imminent hostilities.

I will ask you in a minute, Mr. Armacost, about the area from Gibraltar to the Dardanelles and what the people are like and what the governments are like. But the first question I want to ask is, Why aren't we into the War Powers Act, to bring in the Congress and the American people together to do the right thing with the right policy?

Ambassador ARMACOST. My answer, Senator Adams, would be that there is a distinction, I think, between the prudence and the necesssity to consult, which we clearly accept, and the obligation to——

Senator ADAMS. Well, do you agree that there have been hostilities?

Ambassador ARMACOST. I don't agree that this situation involves the introduction of U.S. forces into conditions that are likely to produce imminent hostilities. I do not.

Senator ADAMS. You do not think that there are hostilities at the head of that gulf?

Ambassador **Armacost**. I think that American ships have been in the gulf for 40 years and——

Senator **Adams**. But I mean escorting. We did not go beyond Bahrain, did we, before?

Ambassador **Armacost**. Sure. American-flag vessels have gone up north of Bahrain.

Senator **Adams**. How often have we escorted into that war zone?

Ambassador **Armacost**. I would be glad to supply that for the record, but the protective regime is not new. It has been in force since 1984.

Senator **Adams**. We've had ships in there, but we have not reflagged and then gone into a war zone, have we?

Ambassador **Armacost**. We do not normally go in a—they have both declared war zones, exclusionary zones. But the transit routes do not normally transit those zones that have been declared both by Iran and by Iraq.

Senator **Adams**. Do you think that Shatt al Arab and its proximity to Kuwait keeps you out of a war zone?

Ambassador **Armacost**. Well, I think that ships have put into Kuwaiti ports on frequent occasions in recent years, and we have not felt obliged, nor has Congress asked that we notify on the basis of the war powers resolution.

Senator **Adams**. That war powers resolution is triggered, is it not—when American armed forces are introduced, one, into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, or two into the territory, airspace, or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces? I don't want to be cute about it, or about the technical language. I just want us to acknowledge if we are going to go in there, that we have ships equipped for combat. You have all testified that we will retaliate. We have had 1 ship holed and 37 kids dead.

Now tell me why this does not apply.

Ambassador **Armacost**. Senator, I think there are two questions. One is whether the law requires that we notify. The other is whether or not we feel obliged to consult.

We do feel obliged to consult. We have been up here, trying to consult since March. The issue became a public issue after the——

Senator **Adams**. Now you and I both know that act. Under section 4(a)(1) there is a consultation. Then, it is not "the President may" and so on, but it's "the President shall withdraw unless Congress extends it, declares war, or takes positive action."

Now that brings the point of consensus in America, which we never had in Vietnam. We all went through that. We never got the American public to totally understand that we were at war.

Now that was the purpose of passing the act. What I am asking you is, Why aren't we using it, if this is vital, if you are worried about all kinds of other things?

But I am worried about the fact that we are in imminent hostilities, that we are about to beef the force up, and we are in foreign waters, equipped for combat.

Secretary Armitage, are we or aren't we?

Mr. **Armitage**. We are in international waters, Senator.

Senator **Adams**. You are going to go into Kuwaiti waters with those tankers.

Mr. **Armitage**. No. We don't escort into Kuwaiti territorial water.

I will respond to your remarks.

The question about imminent hostilities is one on which we disagree. You say that we are into a situation of imminent hostilities; we say that we are not.

We cannot say that American boys aren't going to get shot at. We would be fools to do so.

The issue is that the war powers resolution itself, as you very well know, has very deep constitutional questions to it.

Senator **Adams**. You bet.

Mr. **Armitage**. You are not going to get administration witnesses up here saying we will consult under war powers or not. This has been discussed by better than Mike and I. This has been debated here in the Congress and elsewhere.

The question, the indication that Mike gave you, of our willingness, indeed our desire to consult, I think is more to the case in this particular circumstance.

We are not at war. We are not going to war. We don't want to go to war.

Senator **Adams**. It does not require a declaration of war in this case. We never declared war in Vietnam. But we were in imminent hostilities from the day of the Gulf of Tonkin incident.

Mr. **Armitage**. We were in hostilities.

Senator **Adams**. You bet.

Mr. **Armitage**. We weren't in imminent hostilities. We were in hostilities. There is a difference.

Senator **Adams**. Well, we have had a ship holed and sunk in the hostilities.

Now, if you go into a war zone, you are in imminent hostilities, are you not?

I am just trying through you to deliver a message back to the administration. I am not trying to put either of you on the spot.

I know you well. I know where you have been for a long time. But there has to be a message that goes that if you want to have a consensus, and bipartisan support, and a nation behind you in what may well be a vital interest, then let's use the process short of declaration of war that we set up to make it happen. And in 60 days let's review it. And in 60 days, we'll stand up and vote one way or the other.

But I don't like this slow suction that is going on, which happened in Vietnam. I didn't know that we would ever get out of there.

Mr. **Armitage**. In response to your plea for consultation and a bipartisan foreign policy, we absolutely agree. But we agree short of invoking the war powers resolution.

Senator **Adams**. All right. That is where you are. Now let's shift topics.

Ambassador **Armacost**. May I add, though, that while the certification procedures go forward, we have said that we are not going to actually commence in a formal way the reflagging until both the protective regime is in place and we have consulted with the Congress. That is what we are doing here.

We have provided you a full report. We are fully available to you, both in executive session and in public session.

Senator **Adams**. I am not dissatisfied with the fact that you are here reporting. Let's turn to what we are involved with.

You have spent a lot of time in your life, haven't you, between Gibraltar and the Dardanelles?

Ambassador **Armacost**. Well, I have spent more out in the Pacific.

Senator **Adams**. But you've spent a lot of time there.

Ambassador **Armacost**. I've spent some there, yes.

Senator **Adams**. We both have. All right.

Now, you are dealing with a regime that has hostages, which can be in many cases considered an act of war. I just want you to tell me whether or not you think that that government is so stable that we can avoid for a indefinite period of time imminent hostilities? This is the Khomeini regime.

Ambassador **Armacost**. As I said, I would not make categorical statements about Mr. Khomeini.

Senator **Adams**. I am asking you for your knowledge over the years.

Ambassador **Armacost**. The evidence that we have of Iranian conduct vis-a-vis our naval vessels in the gulf and commercial vessels under their protection has been one of great restraint and caution.

Senator **Adams**. Mr. Secretary, look. I asked you about your knowledge of the Arab and the Persian reaction to things. Have you ever seen a nation like that take you on at your strength? Doesn't it always go elsewhere, to things such as terrorism, hostages, these kinds of activities, long before they go up against U.S. military strength with whatever they've got?

That's what I want to know, that the American people are getting themselves braced for as we start this policy. This is a policy committee. It is not the Armed Services Committee. We are not trying to tell Secretary Armitage how many to send or that I might want to send the *New Jersey* up there. I happen to think it is the only thing that can survive up there.

But that is beside the point.

The point is what is the policy that is being enunciated and where is it going and what you do with the Congress.

Ambassador **Armacost**. I think your point about their reaction is correct. They have other options than a direct military assault.

I think the premise of the question, however, was that we were undertaking something that they can properly regard as a provocation. What we are doing is extending protection to neutral shipping from neutral ports of noncontraband material. We are not arming Iraq.

Senator **Adams**. You testified that Kuwait had been both harassed and intimidated because it was an ally of Iraq, which is a sworn enemy, and Khomeini has said he will overthrow the leadership of that country no matter what.

That means that we are not going into a neutral situation, do you think?

Ambassador **Armacost**. As I said before, they have sought to preserve a formal neutrality, although it is clear where their sympathies lie in this conflict. They lie with the side which is the weaker party, but they do not wish to see Iran prevail.

Senator **Adams**. But is that provocation?

Ambassador **Armacost**. I am saying that they have been subject to harassment and intimidation since last September, and they sought protection. We have offered in a limited way some protection to them.

Senator **Adams**. Answer me, and then I will stop, Mr. Chairman. Is that provocation to the country that has harassed and intimidated them and has sworn holy war toward a great part of that region, both Islamic and non-Islamic?

Ambassador **Armacost**. I would not so regard it. As I say, I would regard it as transporting noncontraband material from a neutral port and neutral ships.

Senator **Adams**. Mr. Secretary, I understand your technical answer and I accept it. But I do not accept your answer from your experience and knowledge of the policy in that area.

I thank you, Mr. Chairman.

The **Chairman**. Senator Kerry.

Senator **Kerry**. Mr. Chairman, I don't want to take too much time, but I want to pick up on something.

I think Senator Adams' line of questioning is very important here because it really gets at the issue of risk.

I heard you say that you would reassess the risk if a ship got sunk.

I have to tell you that I am really bothered by that. You are going to then reassess it. Isn't this the moment to make that assessment?

Ambassador **Armacost**. We have been assessing it, Senator Kerry. It has been the preoccupation of most of these interagency deliberations over the last month or two.

Senator **Kerry**. Can you speak up or pull in the microphone, because I cannot hear you very well.

Ambassador **Armacost**. I say that that has been the subject that has preoccupied us in these interagency deliberations over the last several months. We have been very mindful of the risks and have been attempting to assess them carefully.

Senator **Kerry**. But the policy has been announced. The commitment has been made.

Ambassador **Armacost**. Well, the assessment of this goes back well before the decision.

Senator **Kerry**. I don't know if you have read Phil Geyelin's column this morning in the Post. I thought it was an excellent column. We are sitting up here in a box.

We have a choice of now trying to extricate ourselves from a policy that is already defined which, once again, puts us in the predicament of sending a message about American credibility.

So, here we are, weighing risk against American credibility in the region with a policy that is a fait accompli, essentially, not in its implementation, but in its commitment.

Ambassador **Armacost**. I would simply say, Senator Kerry, that back some months now, our people came up to the committee and sought to brief people and offered briefings to the committee and to individual Members. It was really not until March or May 17, or whenever the incident involving the *Stark* occurred, that people became deeply engaged on this issue.

I do not think we have brought this to you in the aftermath of the *Stark* incident for the first time.

Frankly, we have tried to catch people's attention on it at an earlier stage, but there were a lot of other problems and people are busy.

Mr. ARMITAGE. The implication—with your permission——

Senator KERRY. If I may just comment on that, I think that that may be fair, but the point, and I want to come back to it, has to do with the whole issue of the War Powers Act.

As a lawyer and as a politician, I happen to agree with you that you could make an argument, you can sit there technically and sure you can make an argument, not maybe imminent hostilities in the traditional sense, in which you are putting troops on a fighting line. You can define "escort service" as something other than that. You cannot argue with the section 4(a)(1) piece of it, though, which talks about putting people armed for combat into something that is, you know, transitional, border stage, et cetera. That fits.

But the problem with that piece is all it does is require consultation.

The piece that requires us to rule on the time period is only invoked with the definition of imminent hostilities or hostilities, and there you have greater latitude.

But the point that Senator Adams makes and that I think I made the last time we had a hearing is that we are not dealing in technicalities here. We are not trying to find a way to hide underneath an ability to avoid the technical invocation of an act as important as that.

We are trying to find a way for America to understand and for us, as a Congress, to feel good about and support the potential that we might get into a war.

Now, why are you not better off, in light of that invoking it? What do you lose? If the Congress of the United States supports your policy, there is a greater likelihood that the American people will—maybe not; maybe there is a greater likelihood that they absolutely won't. One likes to think that if we approached it in that way that we are going to have a policy. Right now we do not have a policy. I think that is what is frustrating a lot of us.

You have a policy, but we don't have a policy.

Ambassador ARMACOST. We have been up here in the hopes that we would mobilize your support, Senator.

Senator KERRY. Why do you think you are having trouble doing that?

Ambassador ARMACOST. Well, you would be in a better position to answer that than I would.

We have tried to delay our case in a reasonable way in the hope that in the end, you would endorse our view that, given the circumstances and given the risks and given the obligations we have as a world power, this was a reasonable response to that situation.

That is really our case.

Senator ADAMS. Would you yield a minute, John?

Senator **Kerry**. Yes.

Senator **Adams**. That may well be so. You have not heard me say that it is not a vital interest or that we maybe should not be there.

The problem is as Senator Kerry is pointing out. Don't come up and just talk to us about it. There is a procedure. Get us in it, and we'll get in or we'll get out. It will be our fault and we're a part of it.

That is what I think he is trying to express, and I have stated to the chairman that I do not consider reflagging alone enough. I'll attach the War Powers Act to it.

I may lose, but I'm not going to let another one of those things start the way it did before.

Thank you for yielding, John.

The **Chairman**. Let me interrupt for a minute here because we have two more panels to hear from.

Senator **Kerry**. I am not going to go on, Mr. Chairman, but I just think this point is so important. I am troubled, incidentally, by the response that we have in front of us, because, candidly, I am not convinced it is constitutional. I am not sure that I want to sit here and vote to restrict the President of the United States from reflagging, which I think he can do and we cannot prevent him from doing so. But we can restrict him from using funds to support it.

So we can get even into a deeper box.

The President can go ahead and reflag, because I don't think we can stop that. But what we can do is prevent the expenditure of funds to support the subsequent need that comes from that reflagging.

So we are even getting into a deeper hole here.

My concern is—well, let me just ask this question.

How far are we prepared to go? We have this volatile region. We have an Islamic fundamental revolution going on. We have moderate Arab states that are aligned with the United States, the Satanic enemy.

What greater opportunity than to show the truth of the Islamic revolution in the region than by taking on the United States, the infidel nation that reflags the supporter of Iraq—and so they do attack. What are we going to do?

You know that Ronald Reagan, the self-proclaimed Wyatt Earp of anti-terrorism, is not going to sit there and do nothing. You know the United States has put its prestige on the line—an American-flag ship, with all this hullabaloo about how this means protection. We have no choice but to take some action.

What are we going to do? Are we then going to do what we did in Libya, a bombing attack? Where does that lead?

Where are we going? How far is your policy prepared to go? Can you state that for the record?

Ambassador **Armacost**. For the record, we will defend ourselves. I think the fact that we——

Senator **Kerry**. Does "defend" mean you will try to shoot down the thing that shot at you? What happens if it gets away? Will there be retribution? Will there be retaliation? Will there be an attack against the missiles or whatever?

What are we going to do?

Ambassador **Armacost**. I don't think it is helpful, Senator Kerry, to try to lay out all of these kinds of military contingencies in a public session. We will be glad to come before you in executive session.

Our obligation is to defend American Navy ships and personnel, and in this case those who were placed under their protection.

I suspect that the Iranians will have to bear in mind the tremendous military power of the United States. They will have to calculate whether or not a provocation against the United States would result in more direct support for their adversary, Iraq. They would have to worry about the consequences in terms of a larger presence by external powers in a gulf which they like to think of as theirs.

They would have to think about the consequences for their own oil supplies, upon which they depend for revenue to prosecute a war.

They would have to recall the Tripoli raid, and it is something that puts a doubt in their mind, a concern in their mind, about the consequences.

I suspect it is a combination of those considerations which has prompted the prudence and the caution which has marked their conduct, as opposed to their rhetoric, in the gulf in recent weeks and, indeed, over a longer period of time.

It is that reason, looking at the actual evidence of their conduct, that has led us to believe that these risks are manageable.

Now, we do not come and say to you that there are no risks. We do have a different understanding, Senator Adams, about the degree to which this puts American fightingmen in a condition of imminent hostility. We do not believe that is an accurate description of those conditions. Indeed, when we do not share that judgment, to come up under the War Powers Act would convey, I think, not only to our public but to countries around the world, an inaccurate description of the actual environment, because we do not think our naval personnel are confronting that level of risk. But to say there is no risk would be foolish.

But we think, as I have said, measuring the risks, the somewhat greater risks of taking on a larger protective role, against the consequences of failing to act entirely when confronted by the choice presented us back in January to March, that this is a reasonable response in terms of our national interest.

That is really the case.

We are not up here trying to score debating points. We do look for a consensus. I think we have all learned, as Senator Adams has indicated, that you cannot sustain important policies without public support, and that is what we are looking for.

Senator **Kerry**. Thank you, Mr. Chairman.

The **Chairman**. Thank you very much, gentlemen.

I would add here in connection with a response to one of the questions that I remember in a closed session of the committee, I think Assistant Secretary Murphy was there, and I know that I, personally, expressed concern that our ships would be under attack in the Persian Gulf, and I believe others of my colleagues have at different times expressed their concern, too, prior to the *Stark* being hit, the way it was.

Second, the press reports today say that gulf-based maritime sources report that Iran is mining the narrow approaches to Al Hamadi oil terminal. The mining is reportedly being carried out by Iranian revolutionary guards and explosives experts. The mines can be set off by remote control or automatically detonated by ships passing over them. Some are said to be buried in the seabed and are difficult to detect by minesweepers. These reports are said to be confirmed by Arab and Western diplomatic sources.

Is there any validity to this press report?

Mr. **Armitage**. I saw that press report only a few moments before you did, probably, Mr. Chairman. What we do know is there is a limited minelaying capability, all of it rather unconventional, on the part of the Iranians.

We have not seen anything so far other than moored mines, which apparently have broken loose. These are not command-detonated mines. This does not mean that what you say may not have some validity. But we have not seen it yet.

I think it is fair to say that the threat of mining is one that concerns us, and we are evaluating and have evaluated previously, and we are reevaluating it even now, with the Joint Chiefs.

The **Chairman**. I thank you all.

I would add that my own views on the war powers resolution are exactly the same as those of Senator Adams and Senator Kerry, and I would imagine others of my colleagues feel very much the same way.

I thank you for being very forthright. We look forward to seeing you at a classified hearing tomorrow—not Mr. Armitage, but Mr. Armacost.

Ambassador **Armacost**. I will try to make it. I have not looked at my schedule. But I will try to be there.

The **Chairman**. If there are any problems, let us know. But I think it is a good idea to get these things in a classified session.

Let me say that the hearing is not over. We have two more panels to hear from. I would ask that Mr. Robert Hunter and Mr. Walter Berns come up to the witness table.

Mr. Robert Hunter is a former member of the National Security Council and Mr. Berns is a senior fellow with the American Enterprise Institute.

Gentlemen, welcome very much to the committee this morning. Which one of you would like to start out?

Mr. Berns, why don't you begin.

I would add here that there is another panel, and since we are quite limited in time, your full statements will be inserted into the record, as if read, and if you could abbreviate them and keep them perhaps even to a little under 5 minutes, it would be greatly appreciated by the Senators who are here.

STATEMENT OF WALTER BERNS, JOHN M. OLIN UNIVERSITY PROFESSOR, GEORGETOWN UNIVERSITY, AND SENIOR FELLOW, AMERICAN ENTERPRISE INSTITUTE

Mr. **Berns**. Thank you, Mr. Chairman.

I will be the first witness before this committee this morning to say that I am not happy to be here.

I am not unhappy to be here, but I am not happy to be here.

Second, I have nothing whatever to say with respect to the policy or the wisdom of the reflagging of vessels and so forth. That is not my concern here.

My concern is essentially that of constitutionality, and I have grave doubts as to the constitutionality of the proposal that you make.

I might say in passing, as I have sat here this morning and listened to Senators and the witnesses, it seems to me there is no disagreement among them with respect to the importance of the Persian Gulf and the importance of keeping the Soviet Union out, the importance of keeping the oil flowing, and so forth. The disagreement has to do with the policy to achieve that end, and so forth.

But to get back to my subject, that of constitutionality, in the first place, I object to the statement of purpose in the title of the bill, because of course we should avoid, if possible, involvement in hostilities, and not only in the Persian Gulf. But the statement, if adopted as policy, would interfere with or would infringe the President's constitutional authority to come to the defensive aid of Persian Gulf states if requested by them to do so.

By the Constitution, the President is, of course, required to take care that the laws be faithfully executed, and it has long been understood in this country—in fact, since 1793 and the statement of Alexander Hamilton—that the laws that he is obliged to uphold include those general laws of nations which govern the intercourse between the United States and foreign nations.

Hence, if the President has entered into an agreement to do so, and he is constitutionally entitled to do that, and if it is possible for him to honor that agreement, the President must, indeed, come to the assistance of a Persian Gulf state whose freedom of navigation is denied or is threatened. He must do so even at the risk of our becoming involved in hostilities.

Now, it seems to me—I leave out all the references to historical precedents—that if this bill is adopted, we would encourage attempts to avoid its restrictions. Here I have reference to something Senator Evans was saying earlier today.

For example, supposing the United States, instead of reflagging these Kuwaiti ships, entered into an Executive agreement with that country to provide a naval escort for those ships. This would certainly increase the risk of hostilities in the Persian Gulf. But I think there is no way under the Constitution for the Congress to limit the powers of the President to do just this.

Again, I leave out the historical precedents.

The bill assumes, wrongly, I think, that Congress, using its power to provide and maintain a Navy, or, more generally, its power to appropriate money, may limit the President's authority to enter into Executive agreements. Congress may certainly withhold funds from the military. It may withhold funds from a particular military service. For example, it may refuse to maintain a Navy or refuse to maintain a particular kind of naval vessel. But, having funded the construction of those naval vessels, I think Congress may not prescribe how they shall be deployed.

It may not do this directly or, using the appropriations power, indirectly.

To repeat, if Congress has the authority to tell the President where to deploy the naval vessels, it might then forbid their deployment in the Persian Gulf. But it does not have such authority under the Constitution. That belongs to the President as Commander-in-Chief.

I stand ready to answer whatever questions the committee has for me.

[The prepared statement of Mr. Berns may be found in the appendix.]

The CHAIRMAN. Thank you very much.

Mr. Hunter.

STATEMENT OF ROBERT E. HUNTER, FORMER SENIOR STAFF MEMBER OF THE NATIONAL SECURITY COUNCIL

Mr. HUNTER. Mr. Chairman, I welcome the chance to testify this morning and to endorse S. 1327. I think you were very wise and perspicacious to introduce it.

We recognize that we face a turning point now in U.S. policy toward a vital region. We are not debating the gravity of the issues or the degree of U.S. interests.

We understand that this is the area of the world in which it is most likely, if at all, that United States-Soviet relations could deteriorate to the point of a nuclear confrontation. In a word, this is the most dangerous place on Earth.

There may, Mr. Chairman, be circumstances in which we will have to use military power. We might have to increase our presence, use force, and perhaps even strike Iran. This is possible.

My judgment is that the time is not now, that the circumstances do not warrant it, and the price we would pay would be severe—in lives, in ships, in our position in the region, especially vis-a-vis the Soviet Union.

We also recognize that there is a threat to shipping, deriving first from the Iraqi tanker war, which began in 1984 precisely to draw in outside powers.

In fact, the attack on the U.S.S. *Stark* on May 17 was an accident, but it did achieve the Iraqi goal, as we can see, by the U.S. response.

We must not, as you yourself, Mr. Chairman, have pointed out, exaggerate the threat. You have given the statistics very clearly that show that this is not something that is appreciably greater than we have seen in the last 3 years and to which the international oil markets in other countries have adjusted.

There are, in my judgment, three basic motives for United States action, in all of which I believe the risks outweigh the gains: To keep Iraq in the war; to compensate for the United States-Iranian arms deal; and to offset Soviet influence.

Let me just say a word about the last of these.

I believe that it is a valid motive to try to contain Soviet influence in the region. That is the premise of the Carter doctrine. It is, indeed, a bipartisan policy of the United States, to try to keep the Soviets from achieving what they have tried for so long to do.

But there is a problem in this particular case. The means chosen by the administration, namely the reflagging of Kuwaiti tankers, puts us in a position where we can come into hostilities with Iran.

Frankly, Mr. Chairman, in listening to the testimony, I have to say this. If it were not true that there is a chance of a fight with Iran, Kuwait would not be asking to have the Stars and Stripes fly at the masthead.

Of course, it is not in Iran's interest to pick a fight with us. It has not struck a U.S. ship, and it needs the Strait of Hormuz open more than any other country.

But I do not believe that it is useful, wise, or necessary for the United States to rely on Iranian forbearance for its policy, or on the effectiveness of Iranian command and control.

We have already heard this morning about an attack on a Soviet ship, presumably by the revolutionary guards. We have to understand that there are elements in Iran who would welcome picking a fight with us and having us strike Iran, precisely to give a shot in the arm to the revolution and to prevent a reconciliation between our two countries.

Mr. Chairman, I believe that we run the risk of once again having our entire policy become hostage to Iran, this time by our own actions.

I say once was one time too many.

If we strike Iran in response to an attack on us, not only would there be risks to United States ships and crews. We would also play directly into Soviet hands.

The Soviet Union would be the one winner in such an altercation.

It would take a giant step to gaining a 200-year-old dream of a position in the gulf and decisive influence in Iran. In fact, I would like to speculate that Mr. Vorontsov's trip to Iran was not just to deliver a warning, but also to deliver pledges about what would happen if the United States were to strike that country.

Such an act would foreclose United States-Iranian reconciliation for many years to come, long after the death of the Ayatollah.

We are now in the position of seeking to limit Soviet influence in a small arena, overestimating, in my judgment, the possibility that these gulf states would fall into the Soviet lap. I will assert that that will not happen unless we take absolute leave of our senses and totally depart the gulf.

But in the process of looking in that narrow perspective, we offer the Soviets an opportunity to sweep the board.

I do not believe we should be mesmerized by the illusion that somehow the Persian Gulf will become a Soviet lake.

I think we have to understand that our concern about the Soviets' gaining and the loss of United States credibility did not just begin with a Kuwaiti request to the United States, but is a result of a series of United States policy blunders extending back several years.

Mr. Armitage this morning talked about the burden of leadership. I do not think that should just come up after the fact.

Having declared itself, I recognize that it is hard for an administration to back down. Let me just take 1 minute and suggest a very few things to do.

First, is to reduce the rhetoric.

Second, is to declare a concern for all shipping, not just all-but-Iranian.

Third, is to tell Iraq that it is time for it to stop its part of the tanker war. I don't think anybody said that this morning.

Fourth, is to broaden discussions with the other Western states through the U.N. Peacekeeping Force, which you have talked about.

Fifth, is to talk with the Soviets, but not legitimate their presence.

Sixth, is to seek other means of making peace.

Finally is, for the first time in this administration, to have a comprehensive plan for the entire region of the Middle East.

Above all else, Mr. Chairman, I do not believe that we should take a step that is likely to escalate conflict, and I support S. 1326.

Thank you.

[The prepared statement of Mr. Hunter may be found in the appendix.]

The CHAIRMAN. Thank you very much.

I would ask the timekeeper to limit me to 10 minutes.

Mr. Berns, Senator Helms has a number of questions for you. He could not stay because President Reagan is addressing the Republican policy luncheon, and he asked me to submit them to you for the record. He would be particularly interested in getting your answers in time for the markup on Thursday. In other words, if you could, get your answers to him before tomorrow evening.

Mr. BERNS. As I understand it, you will give me those questions and I will respond in writing.

The CHAIRMAN. That's right.

Mr. BERNS. I am perfectly content to do that, Senator. Yes.

The CHAIRMAN. Thank you.

Also, in connection with my bill, as I understood the gist of your testimony, you were concerned not about the logic or the objectives of it, but about the constitutionality. Is that correct?

Mr. BERNS. Yes, sir.

The CHAIRMAN. Do you have any suggestions about how you think it could be made more constitutional to meet your requirements, your thoughts, in that regard?

Dr. BERNS. In the first place, I suppose I have real doubts as to the attempt to limit the President's power to enter into executive agreements. I think that issue has, in fact, been settled in the law.

I was out of the country until the other day and I got drawn into these hearings at the last moment, and I did not have the opportunity to go back and look into the cases—United States against Pink; United States against Belmont—those cases coming out of the 1930's, having to do with the Litvinoff assignment, and involving President Roosevelt's executive agreement.

I think there, and also during the so-called Bricker amendment hearings some 30 years ago, that that issue was settled. It seems to me that your bill is trying to put restrictions on the President's power to enter into these executive agreements. I think that is a violation of the principle of separation of powers.

The CHAIRMAN. Thank you.

But you do agree that we retain the power of the purse, so the portion of the bill that reads no funds appropriated or otherwise made available and any other provision of law may be used to implement such agreement, that may be perfectly proper, perfectly constitutional?

Mr. **Berns**. Well, supposing we were not reflagging these vessels at all but were in some other way extending our protection to the shipping in the gulf. It is my understanding of the President's power as Commander-in-Chief and his obligation to see to it that the laws are faithfully executed, and those laws include the laws of nations, et cetera, et cetera, that it is within his power to do that; and if Congress has authorized a Navy, the President is entitled to decide how the vessels of that Navy would be deployed. I think what you are attempting to do here is to restrict his powers as Commander-in-Chief.

So I have real doubts as to the constitutionality of the bill.

The **Chairman**. I thank you very much for your thoughts on that.

Mr. Hunter, we are grateful to you for being here and for your support of the bill. We are very appreciative.

Your basic thesis, as I understand it, is that the reflagging proposal involves a significant risk of a conflict between us and Iran which, in turn, could provide the Soviets with an opportunity to greatly enhance its position in Iran.

Would that be correct?

Mr. **Hunter**. Yes, sir. I do believe that.

In fact, I think the Soviets have been trying in recent months to put themselves in a no-lose position. First is a Soviet response to Kuwait, which actually has been a quite limited response. You may have noticed, in fact, I think you have written about it, that the Soviet Union has indicated an unwillingness to increase its presence there at the present time. Their scenario is not for them to strike Iran—for example, in response to their ship that was attacked—but for us to attack Iran. If we get into that position, I have no doubt that the Soviets would work effectively with the regime in Tehran, that the people in Tehran would have little choice but to go in the direction of the Soviet Union, and that we could find ourselves frozen out of the possibility of a reconciliation with that country for a long time to come. We could find ourselves with a significant, if not decisive, degree of Soviet influence in Iran.

In fact, what I am cautioning against is fully consistent with what the President of the United States said in his address to the Nation last November 14, when he explained the sale of arms to Iran precisely in terms of recognizing Iran's strategic importance and trying to keep it independent of the Soviet Union.

I believe he was right then and that his spokesmen and he are wrong now.

The **Chairman**. Thank you.

Now, further along, you argue that if we do not reflag, the Soviet Union is not likely to develop a much closer relationship with the conservative gulf states. In other words, by not reflagging, we are not heightening the situation or endangering the situation in any way.

Mr. **Hunter**. Mr. Chairman, I think that the Soviets will get a minor victory in that they will have a few ships in the gulf and will have shown Kuwait that it is prepared to be of limited assistance.

But I think we have to look at the whole history.

These states have looked to the United States as the outside power with which they want to work. Kuwait has had diplomatic relations of a limited extent with the Soviet Union for many years. Oman and the United Arab Emirates have it now. The Saudis do not. The Soviet Union does not have the kind of access we do. The basic concerns these gulf states have about a Soviet presence and influence are well documented and well established.

The antipathy between Islam and communism is well established.

Frankly, I have seen nothing in the attitude of these states, extending backward for many years, to this moment, which would lead them to be subject to the blandishments of the Soviet Union unless we committed utter folly, among which would be if we decided simply to depart the Persian Gulf. No one has suggested that we do that.

This is, in my judgment, for the Soviet Union a very low-risk, low-cost, and potentially high payoff policy, because of our over-reaction.

The **Chairman**. Thank you very much.

Senator Adams.

Senator **Adams**. Thank you.

Mr. Berns, I found your statement incredible. I want to refer you to three parts of the Constitution which you ignored, and I don't know why, and I want to ask you about the War Powers Act.

Article I, Section 8 of the Constitution, it provides that the Congress shall have the power to do a series of things, including to declare war, grant letters of marquis and reprisal, and make rules concerning captures on land and water.

Thereafter, it says, three sentences later, to make rules for the Government and the regulation of the land and naval forces.

Continuing on, at the end of that it says to make all laws which are necessary and proper for the carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States or any Department or officer thereof.

Everybody has talked about the power of the President to conduct foreign policy or war. Do you know of any executive agreement that has given the President of the United States the power to conduct a war without a declaration of war by the Congress?

Mr. **Berns**. No, sir.

Senator **Adams**. There is not one, is there?

Now, you referred to executive agreements with Kuwait. They don't mean anything in terms of our people being at war in that gulf, do they?

Mr. **Berns**. I'm not quite sure what that statement is in reference to.

Senator **Adams**. Well, you said that by executive powers the President could have executive agreements and, therefore, had the necessity of carrying this out, and that runs into hostilities. I think we are all agreed that there are hostilities in that area, and there has been no declaration of war.

What I want to know from you is do you consider the War Powers Act unconstitutional?

Mr. **Berns**. I have grave doubts as to its constitutionality. Yes, sir.

Senator **Adams**. Do you think it is a subliminal or smaller segment of the power to declare war?

Mr. **Berns**. Well, I suppose that argument can be made.

No, I am not really prepared to testify on the War Powers Act here today.

Senator **Adams**. Yes, but you testified on the constitutionality of, in effect, entering into hostilities with military forces over a sustained period of time where acts of war might be occurring, and said that the Congress had no role except to appropriate money.

I think that is false. I want you to justify it.

Mr. **Berns**. What I said was I have grave doubts about the constitutionality of this bill because, among other things, it attempts to put restrictions on the President's power to enter into an executive agreement. As I read the law on that subject—and I made some references to Supreme Court cases involving it, the *Pink* and *Belmont* cases—and as I recall the debates some 30 odd years ago concerning the so-called Bricker amendment——

Senator **Adams**. I remember it very well.

Mr. **Berns** [continuing]. I thought that this issue was fairly well settled, that the President's power to enter into executive agreements was not to be limited by the Congress of the United States.

Senator **Adams**. Wait a minute. Those did not involve agreements—we both agree on this—which enabled the President to go into a state of war.

Mr. **Berns**. Yes, sir. I would agree to that.

Now, if you were to ask me a question to make the same point that you just made, namely, is it possible for the President to violate the Constitution by entering into a particular kind of executive agreement, I would say "yes, it is." There are certain things he may not do by executive agreement.

Senator **Adams**. All right.

Can he commit acts of war without a declaration of war by the Congress?

Mr. **Berns**. That depends on how you define an "act of war."

In 1801, for example, President Thomas Jefferson, for example, sent a fleet of frigates into the Mediterranean, and the purpose of that squadron of frigates, as he referred to it in a report to Congress, was to protect American commerce in the Mediterranean against the Algerian and Tripolitan pirates.

As a matter of fact, an American schooner called the *Enterprise,* the first American ship to bear that proud name, made a preemptive strike. It was, indeed, a preemptive strike. It initiated the attack on a Tripolitan ship, sank it, or captured it, killed many of its crew, and so forth and so on.

Now, is that an act of war?

Senator **Adams**. If we were to have continued in Tripoli, where we went in and got our hostages and got out, then that would have led in this Nation to an outcry to either declare war against the Barbary pirates or leave. It was a preemptive strike.

Mr. **Berns**. Yes, sir.

Senator **Adams**. We are not talking about that here.

We are talking about a long-term policy of taking American ships into hostile waters and committing—you have heard the testimony here—potential acts of war, not a preemptive strike, but a series of them, as necessary.

I just could not understand your taking the position that the Congress has no power to pass the War Powers Act or to say that a particular set of acts have now intruded upon the Congress' power within the war power and within regulating the Army and the Navy and, therefore, it was unconstitutional.

I just do not understand that.

Mr. **Berns**. Senator, let me remind you of what your question was and how I answered it.

The question had something to do with the President's authority to engage in war—I forget exactly how you put it—and I said "Well, that depends on how you define 'war'." Then I gave you an example, and of course I could have given you many examples, many involving, perhaps all of them involving——

Senator **Adams**. Imminent hostilities used by——

Mr. **Berns** [continuing]. Franklin Roosevelt, I was about to say.

Senator **Adams** [continuing]. Used under the Commander-in-Chief powers.

Mr. **Berns**. Yes—and engaging the armed forces of the United States in war-like actions.

Now, then, you used the example of Tripoli.

Senator **Adams**. Tripoli involved hostages.

Mr. **Berns**. Had the fleet stayed there and bombarded Tripoli, and had it engaged in and undertaken a series of offensive actions against Tripoli's ships, and so forth and so on, that probably would, and I am sure Thomas Jefferson would have understood it to require an act of war, a formal declaration of war on the part of Congress.

But short of that, in his capacity as Commander-in-Chief, he has a constitutional obligation to provide defense, and, in our present case, to defend shipping and the freedom of navigation, et cetera, in the Persian Gulf.

Now, as I said at the outset, I do not want to get into a discussion, I don't want to get into an argument, I don't have any arguments, or many arguments, with Mr. Hunter here, for example, as to whether this policy of reflagging ships and so forth——

Senator **Adams**. No, no. I am talking about the constitutionality that you focused on as to what the Congress could do and what the President of the United States could do, and in this particular situation I am going to ask you this next question. Do you think we were at war in Vietnam?

Mr. **Berns**. Oh, Senator, I resist the temptation to get off on that one. Sure we were at war there. It's a travesty with terrible effects on this country that that war was never declared and that question was never brought to the American people, that we attempted to avoid the cost of that war, the cost of engaging, and so forth. The consequences of that are probably the greatest tragedy in the history of this country.

Senator ADAMS. Thank you, professor. That is exactly how I feel about it. In 1973, I voted for a War Powers Act. It is designed to define what a President can do, short of declaring war. None of us ever wanted to ever see again an action of sustained American military use in a part of the world without a declaration of war without the consensus of the country behind it.

That is all I am asking.

I intend, and I have explained this to the chairman, and I think the chairman supports it, to amend this reflagging act to say if you reflag those ships, that brings you under the War Powers Act.

Now, I have not said at that point that you have to declare war, but the War Powers Act was a subsegment of the declaration of war, to try to define what a President could do so that the President would come to the Congress and the Congress would then have the decision 60 days ahead on whether or not the troops come out or we have to proceed with declaring war.

That is what bothered me so much about your testimony and the constitutional basis. I don't know any other way you can do this without formally declaring war. That is constitutional—it does not have to do with how many ships or anything else.

Mr. BERNS. I, of course, share your concern, Senator Adams. I would only hope that it would be possible for the Congress to do what it should be doing here in this particular case, without damage to the Constitution, and, if I may say so, without undermining the executive powers of the President.

One of the things that has really concerned me recently is how readily that has been done and, if I may say so, by the present incumbent of the office. When he agreed to turn over his diary to the Congress, it seemed to me that he simply violated the whole principle of executive privilege that goes right back to the first President. What he needs in that White House office is some constitutional authority and not a stockbroker.

Thank you very much.

Senator ADAMS. We will proceed on that one on another day.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, indeed, gentlemen for being with us and thank you particularly for your endorsement, Mr. Hunter.

Our next two witnesses are Mr. Karl Landgrebe, special assistant to the president, National Marine Engineers Association, and Mr. Frank Pecquex, legislative director, Seafarers International Union. I would ask that they come forward.

I welcome you both here.

I will place into the record a good and full letter from Mr. DeFries, president of the Marine Engineers' Beneficial Association, together with a statement from the Maritime Labor Organizations on the proposed reflagging, the Seafarers International Union, the National Maritime Union, the National Marine Engineers' Beneficial Association.

Without objection, they will be placed in the record in full.

[The information referred to appears in the appendix.]

The **Chairman**. As you can see, time is pressing on us, and I would hope, as with the previous witnesses, you could limit your presentations to less than 5 minutes. Then we will have a few questions and will adjourn for lunch.

Mr. Landgrebe, would you care to proceed.

STATEMENT OF KARL LANDGREBE, SPECIAL ASSISTANT TO THE PRESIDENT, NATIONAL MARINE ENGINEERS' BENEFICIAL ASSOCIATION

Mr. **Landgrebe**. Yes, sir.

Mr. Chairman, my name is Karl Landgrebe. I am a special assistant to Gene DeFries, the president of the National Marine Engineers' Beneficial Association.

Mr. DeFries wanted very much to be with you here today, but, unfortunately, he had to be out of town.

I am pleased to be able to present the views of the Marine Engineers' Beneficial Association and also the National Maritime Union and the AFL-CIO Maritime Committee on the administration's plan to reflag Kuwaiti oil tankers.

By your statement, I see that you have done what I was next going to request, that is putting in the record the letters and the testimony of the combined unions, and the letters from Mr. Shannon Wall, president of the NMU, and my president, Mr. DeFries.

The **Chairman**. I am not sure that we have the letter from Mr. Shannon Wall, but we will straighten that out afterward.

Mr. **Landgrebe**. Yes, sir.

We are united in our opposition to this administration's plans to reflag the Kuwaiti tankers. Jointly, we represent over 40,000 U.S. merchant mariners.

I would also like to note that the International Transport Workers Federation, representing some 8 million workers in 58 countries, also has the same position.

In the interest of time and in view of the fact that the letters which have been referred to cover the issue in detail, I will just briefly summarize our views, if you don't mind.

First, we believe this reflagging plan is symptomatic of an overall policy in this region that has not been well thought out and that clearly does not have our allies' strong support.

Second, we support your efforts to put a stop to this administration's current Kuawaiti tanker reflagging plan and your efforts to determine the administration's legal justification for the reflagging.

This is extremely important to our industry and we thank you.

Third, we believe this reflagging is totally unnecessary since the same objective, protection of merchant shipping in the gulf, could be achieved by providing escorts and defense to vessels of any flag. Indeed, given who we are dealing with in this area, flying the U.S. flag and having one citizen aboard may make a more attractive target than would otherwise happen.

Fourth, the administration plan for reflagging is seriously flawed from the point of view of the U.S. merchant marine. It uses Kuwaiti tankers when many U.S. flag vessels are laid up for lack of work. These tanker vessels, incidentally, are the ones that the Navy thinks are its most desirable vessels for acquisition. They also think that we will have a very serious shortfall of people to man those vessels.

It evades or waives U.S. maritime manning, communications, safety, and environmental laws. In the words of NMU President Shannon Wall, it makes a farce out of "our U.S. ownership, manning, construction, and safety standards."

It undermines the U.S. flag fleet by setting a precedent that others could exploit, by operating, for example, United States vessels out of Canadian ports.

This development would seriously hurt many U.S. ports on all coasts, and not just our own shipping industry.

Finally, this reflagging plan could seriously diminish our Nation's sealift capability in manning and in vessels, both of which are essential national defense assets.

Fifth, if reflagging must be done, then at least it should follow established U.S. maritime practices and laws. If foreign interests wish to enjoy all the rights and privileges accorded U.S.-flag vessels, then they should be required to fulfill all normal requirements.

The present plan is turning the American ship registry into a mockery. I should note that the Soviets are reported to be leasing their own vessels, probably with Russian crews as well. They are not just putting a flag and one person aboard. They are actually chartering their vessels, with their manning and everything that goes with their flag.

I would hope that the committee would pursue further this Soviet aspect of the reflagging question.

I would also like to say that our American seamen have never been afraid of danger and would be glad if it were our national policy to take our own ships into the gulf. We would be prepared to do so. However, we do not think that putting one flag and one man aboard there serves that purpose.

Mr. Chairman, on behalf of our unions and their presidents, I thank you for this opportunity to testify before the committee and I would be happy to answer any questions.

[The prepared statement of Mr. Landgrebe may be found in the appendix:]

The **Chairman**. Thank you very much, Mr. Landgrebe.

Mr. **Pecquex**.

STATEMENT OF FRANK PECQUEX, LEGISLATIVE DIRECTOR, SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO

Mr. **Pecquex**. Thank you, Mr. Chairman.

My name is Frank Pecquex. I am the legislative director of the Seafarers International Union.

I, too, am representing somebody else. Frank Drozak is unable to be here. He is out of town and certainly wished he had the opportunity to appear here today.

I would like to just highlight from our testimony, if I can, and will try to keep it under the 5 minutes.

We wish to thank you for the opportunity to present our views on the administration's plan to reflag Kuwaiti tankers to the U.S. flag, and appreciate your considering the interest of the maritime industry.

While we do not propose to address this issue on a foreign policy basis, as we believe that the Congress and the administration are better prepared to do so, we do feel qualified to discuss the merits of this scheme as it affects long-established national maritime policy.

The administration, in permitting these vessels to be reflagged under the U.S. flag, intends to circumvent or waive longstanding maritime laws concerning the operation of U.S.-flag vessels.

National maritime policy requires that on U.S. flag vessel, at least 75 percent of the unlicensed crew be American citizens on each departure from U.S. ports. The administration's action is apparently based on a provision in the law covering citizenship requirements on U.S. flag vessels which provides that after leaving a U.S. port, an American flag vessels operating outside the commerce of the United States can replace a U.S. citizen crewmember if the operator is "deprived" of U.S. citizen personnel.

This exception to the rule is more than 100 years old and was clearly designed to cover an emergency situation, where a U.S. crewmember would not be physically able to meet the vessel for a limited period of time, the time it would take for the replacement U.S. citizen crewmember to travel from the United States to the foreign destination, where the U.S. vessel is located.

This general and temporary exception to the citizenship rules is little used today, in today's world, where the movement of a seaman from a point in the United States to a foreign destination via air transportation is generally done in less than 24 hours.

The administration has contended that since these tankers will not technically be departing from a U.S. port, the vesselowners are not required to use an American citizen crew, other than the master. Clearly, such an interpretation is not in keeping with the spirit or purposes of the citizenship requirements for American-flag vessels, requirements which were enacted to provide a merchant fleet with trained U.S. civilians to serve the Nation in time of war or national emergency.

SIU members, as well as members of other unions, have sailed under similarly dangerous conditions, and know that they are the best group to serve the national interest in this region.

I would like also to point out that members of this union have already expressed to me a willingness and a desire to serve on these vessels or any American-flag vessel in the Persian Gulf. It is clear that because of the willingness and availability of Americans to serve aboard these tankers, this situation does not and should not require the United States to waive or circumvent the requirements for U.S. citizen manning.

The SIU further believes that reflagging of Kuwaiti vessels to the U.S. flag is unnecessary this time, as there is a surplus of available tonnage able to transport crude oil and refined product from Kuwait.

Presently, nearly 40 tankers in the U.S.-flag fleet are without work and in layup and would therefore be available to work this valuable cargo. Sadly, though, operators of U.S.-flag vessels, both actively employed and in layup, have told me that they have offered their services to Kuwait and the administration had refused.

Since there are a number of idle available U.S.-flag tankers, the Kuwaiti vessels should not be allowed to become U.S.-flag vessels for this emergency situation unless they can comply fully with all United States laws. Participation under the U.S. flag should indicate a commitment to the United States since American-flag vessels are considered an extension of U.S. territory.

Such a commitment necessarily entails full compliance with the spirit and letter of the law.

Foreign crews and owners of reflagged vessels have no allegiance to the United States. Instead, they will utilize the U.S. registry temporarily, as opportunity and needs warrant.

Certainly, in enacting the laws pertaining to vessel documentation and manning, Congress did not envision a situation where foreign-owned and foreign-crewed vessels, through the formation of a paper company, would enjoy the benefits associated with flying the U.S. flag.

Twisting explicit maritime laws to conform to the needs of the political situation in the Persian Gulf needlessly creates additional dangers.

In conclusion, I would like to point out that the proposed administration plan and its blatant disregard of established maritime policy, is not required by the situation presently existing in the Persian Gulf. There are trained American citizens, who are willing to serve the national interest in this region, and there are vessels in the U.S.-flag fleet available to transport the Kuwaiti oil.

If it is in the national interest to have U.S.-flag vessels transporting oil under U.S. Navy escort, then those vessels should not only be U.S.-flag vessels, but also U.S.-owned and U.S.-crewed.

They should not be Kuwaiti vessels that are under the U.S. flag for the sole purpose of gaining protection from the U.S. Navy and most likely will never repay the Navy in kind by transporting military supplies during an emergency involving the United States.

The Soviet Union is helping Kuwait in a similar fashion, but there is one important difference. The Soviet agreement with Kuwait calls for the charter of Soviet-owned, flagged, and crewed vessels for its transport needs.

Mr. Chairman, I thank you and I am ready to answer any questions you may have.

[The prepared statement of the Seafarers International Union may be found in the appendix.]

The **Chairman**. Thank you very much.

I have two questions.

First, the administration wants to waive on national defense grounds, as you know, the maritime manning, communications, safety, and environmental laws. How often has this waiver authority been given in the past?

Can either of you recall when it was last given or if it was given?

Mr. **Landgrebe**. I don't ever recall it having been given before.

The **Chairman**. Do you, Mr. Pecquex?

Mr. **Pecquex**. I do not myself. All of the previous witnesses indicated that they waived the safety and the construction requirements, but to my knowledge, any time a vessel has been brought under the U.S.-flag operation, they have always used American citizen crews aboard the vessel.

The **Chairman**. Do you believe that the safety requirements have been waived in the past, as has been testified to?

Mr. **Pecquex**. There have been waivers, I believe. We could check the record, and certainly will, to bolster our case.

The **Chairman**. If you have any more information on that, I would be grateful for it.

Mr. **Pecquex**. Yes, sir.

[The information referred to follows:]

Safety Requirement Waivers

It is our understanding that during the Vietman conflict several U.S. Government agencies attempted to circumvent U.S. maritime policy through the employment of aliens on U.S.-flag vessels. Encouraging such a practice was the Military Sea Transportation Service and the Agency for International Development.

A case in point was the reflagging of two former Nationalist Chinese vessels, renamed the *Good Willie* and the *Good Eddie*, manned primarily with an alien crew. The owner of these vessels attempted to carry a government-generated cargo to South Vietnam in spite of the availability of a U.S.-documented and U.S.-crewed vessel. As a result of protests from U.S. maritime interests, the State Department withdrew its support for the use of these vessels and they were eventually scrapped.

The Military Sea Transportation Service encouraged the employment of aliens on U.S.-flag vessels in the Far East until maritime interests in the States protested the policy, pointing out the availability of U.S. citizen crews in most Far East ports during that era.

It would appear likely, however, that vessel reflaggings of this nature requried waivers of minimum building requirements and safety standards.

The **Chairman**. Second, to the best of your knowledge, were any American maritime interests consulted with prior to the administration's decision to flag or reflag the Kuwaiti tankers?

Mr. **Landgrebe**. Certainly none that I know of.

The **Chairman**. What about you, Mr. Pecquex?

Mr. **Pecquex**. Senator, we come next in the pecking order, after the Congress, so certainly if you have not been adequately appealed to, we have not been included in the process. [Laughter.]

The **Chairman**. I thank you both very much, indeed, for being with us. Your testimony has been very helpful.

This hearing is adjourned.

[Whereupon, at 1:38 p.m., the hearing was adjourned.]

THE SITUATION IN THE PERSIAN GULF

FRIDAY, OCTOBER 23, 1987

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The committee met at 10:03 a.m. in room SD-419, Dirksen Senate Office Building, Hon. Claiborne Pell (chairman of the committee) presiding.

Present: Senators Pell, Sarbanes, Kerry, Sanford, Adams, Helms, Lugar, Kassebaum, Pressler, Trible, Evans, and McConnell.

The CHAIRMAN. The Committee on Foreign Relations will come to order.

It is a very real pleasure to welcome you back to our Committee, Mr. Secretary, and, as we contemplate the situation in the Persian Gulf, I think the principal question on the minds of most of our fellow citizens is what are we getting into.

In the past three months, we have witnessed the mining of several of the major channels in the Gulf, the mining of the Bridgeton, the first American reflagged tanker, and then the American attack on the Iran Mir, caught red-handed in laying mines in international waters, a real action of international banditry. Then, most recently, there were the Iranian Silkworm attacks on one U.S. owned Liberian flagged vessels and on the U.S. reflagged tanker, the Sea Isle City, in Kuwaiti waters.

Finally, there is the United States decision to retaliate for Iran's outrageous attack on a vessel carrying the American flag earlier this week.

As we have become involved in hostilities with Iran in the Gulf, our military presence has naturally grown. According to the Pentagon, I believe, we have nearly 30 naval vessels and 15,000 military people in the Gulf.

Mr. Secretary, while I fully support all the American retaliatory actions of the last month, on this I remain firmly convinced: that the mission we have undertaken in the Gulf should be clear, supported by the public, and supported by us in Congress.

Last June, when the Defense Department submitted its report on security arrangements in the Gulf, the Pentagon explicitly stated that the protection of Kuwait's oil tankers was "not part of an open-ended, unilateral commitment to defend all nonbelligerent shipping."

However, just this week, the "Washington Post" quoted you as stating that after the American attack on four Iranian patrol boats, our military objectives "are not only not vague, they are quite specific and vital to the national security. They are simply to pursue freedom of the seas and the freedom to pass freely over international waters."

If accurately quoted, that statement broadens the original commitment to reflag and to protect 11 Kuwaiti oil tankers in the Persian Gulf.

In my view, this expands the risk of further American involvement in a volatile part of the world, where war has raged for seven years now.

The Committee would welcome your thoughts and statement as to the precise nature of the military mission in the Gulf and the circumstances under which that mission will be considered to have been achieved and finished.

At this point, I would ask our Ranking Minority Member if he has a statement.

Senator HELMS. Many thanks, Mr. Chairman. I am pleased that you have scheduled this hearing this morning, and I thank you, Mr. Secretary, for joining us. We all know how busy you are.

Mr. Chairman, whether one agrees with or disagrees with the Persian Gulf policy, I do not believe anybody can legitimately fault the administration for not sufficiently consulting with Congress since the reflagging operation got underway.

There has been an enormous amount of time spent in the Senate discussing the War Powers Act. Some of it made sense, but not all of it.

I understand why some of my colleagues have pursued this course, or I think I understand. But I fear, Mr. Chairman, that the continuing debate over the War Powers Act, an act I believe to be patently unconstitutional, has sent signals to the countries of the Persian Gulf that support for President Reagan is not firm, and that Congress might not stick by our military commitment in the Gulf area.

Such signals, of course, merely encourage the Ayatollah to test our resolve in much the same way he did earlier this week. Indeed, I think we can expect Iranian aggression as long as Congress sits around and continues to threaten to cut the legs out from under the President of the United States with respect to the Persian Gulf.

In any case, I hope the Secretary can and will shed some light on how this continuing debate is perceived overseas and how it affects our military operations in the Gulf and elsewhere in the world.

In addition, I think it is most important that this Committee keep its eye on Soviet initiatives in the Gulf region. The Soviet interest in the Middle East is merely to create the kind of discord, tension, and confusion necessary to disrupt Western oil supplies and frustrate American interests. This explains, I think, why the most radical and belligerent factors in the Arab world today tend to be the Soviet clients.

Toward this end, we can be certain that the Soviets are ready to exploit any misstep on the part of the United States in this most strategic region. They have done so in the past and they are going to continue to do so in the future.

Of particular concern should be the opportunities which any American withdrawal from the Gulf would present to the Soviets in terms of their objectives. We must be exceedingly careful about that.

I hope that Secretary Weinberger will be able to shed some light on the Soviet presence in the Gulf, as he knows it to be, and how our increased presence in the Gulf has affected the Gulf State perceptions of both our country and, of course, the Soviet Union.

In addition, I will be interested to hear from the Secretary on how Congressional efforts to limit our military presence in the Gulf would be exploited by the Soviets.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Helms.

We will now receive an opening statement for the record by Senator Biden.

[Senator Biden's opening statement follows:]

OPENING STATEMENT OF SENATOR BIDEN

Senator BIDEN. Mr. Secretary, you come before this committee today to testify on the situation in the Persian Gulf at a time when tensions are rapidly escalating. Iran's recent attack on the U.S.-flagged tanker, the *Sea Isle City,* and the subsequent United States destruction of an Iranian oil platform prove that hostilities in the gulf are more than imminent: They are present.

These events clearly demonstrate that the Reagan administration's approach to the region is merely reactive—completely lacking in strategy and vision. Rather than achieving United States objectives in the gulf, the administration's policy is exacerbating tensions and contributing to the perpetuation of an endless cycle of escalating military exchanges between United States and Iranian forces.

The escalation is a direct and predictable result of the administration's policy of reflagging Kuwaiti tankers. In many instances, this policy has had the effect of achieving just the opposite of what it intended. By aligning the United States with Iraq in the Iran-Iraq war, the policy has limited United States flexibility in attempting to keep the sea lanes open to all navigation. Ironically, the United States tilt toward Iraq has also resulted in encouraging a rapprochement between Iran and the Soviet Union. Instead of building United States credibility throughout the world, the reflagging policy threatens to undermine our ultimate objective of ending the Iran-Iraq conflict and could slowly drag us into a full-fledged war.

There is no doubt in my mind that the United States should have a presence in the Persian Gulf that protects American interests, but we must have a clear vision of our objectives in the region and should not embroil ourselves in the Iran-Iraq war. That is why I believe it is time to engage the war powers resolution.

Unfortunately, there is still a fundamental disagreement between Congress and the White House about a strategy for defusing the tensions in the Persian Gulf and guarding American interests there. Although no administration from Nixon to Reagan has accepted the constitutionality of the war powers resolution, the breakdown of the system of consultation that was envisaged when the resolution was drafted is particularly serious with respect to our policy in the gulf today.

The administration is refusing to engage in war powers on one of two grounds, neither of which is acceptable. The first is based on the claim that war powers is unconstitutional. But in fact, the opposite is true: War powers asserts the right of Congress, as provided for in the Constitution, to formulate the decision about when and under what circumstances the Nation goes to war. Furthermore, the war powers resolution is the law of the land, and the President is required to obey it. The U.S. Constitution does not afford him the luxury of picking and choosing which laws he will obey and which ones he will ignore.

The second excuse President Reagan is giving for refusing to engage war powers is even more absurd in the current context. The administration is claiming that U.S. forces are not in a situation of "Imminent Hostilities." As I have already said—hostilities are not imminent: They are present! Recent events have proven that.

We are going to have to look closely at the underlying problem, not just with respect to policy in the Persian Gulf, but more generally at why the war powers resolution is not operating as originally envisaged. Once that is accomplished we will have to take on the even more difficult task of determining what should be done to fix it.

I am pleased that the frustrating experience of the past five months has produced at least one positive result—a commitment from Chairman Pell to re-examine and clarify the constitutional responsibilities of the Congress in the war powers resolution. I look forward to playing an active role in the review, and I commend the chairman of the committee for his leadership on this important issue.

Now we will proceed with your testimony, Mr. Secretary. There will be questions following, with Senators limited to a certain number of minutes, depending on how many of us are here and how best we can proceed.

Secretary Weinberger.

STATEMENT OF HON. CASPAR W. WEINBERGER, SECRETARY OF DEFENSE

Secretary **Weinberger**. Thank you very much, Mr. Chairman and Members of the Committee.

I have a short statement, and I thought, Senator, I would read some excerpts from it and would ask to have permission to have the entire statement included in the record.

The **Chairman**. Without objection, that will be done.

Secretary **Weinberger**. Thank you, sir.

The basic details of our action of October 19, this Monday, have been reported quite extensively in the press, and were formally communicated by the President in considerable detail to the Congress. So I will review that very briefly.

What we did, of course, was to destroy the Iranian platform complex, Rashadat, in the Rostam Oil Field in the Central Persian Gulf. It was ordered by the President, as Commander-in-Chief, as an appropriate, measured response to the previous week's Iranian Silkworm attack on a U.S. flag vessel engaged in peaceful, nonbelligerent commerce in the territorial waters at that time of Kuwait.

The platform, which we destroyed, had been used by the Revolutionary Guard of Iran to conduct radar surveillance, to report on our convoy movements, to launch small boat attacks against nonbelligerent shipping, to launch minelaying operations, and they fired from this platform at one of our military patrol helicopters about a week or two before.

It was a strategic target, not an economic target, since it had not been engaged in oil production for some time, and the destruction of the platform has materially reduced the risks to our ships and sailors in this part of the Gulf, and it has made the region safer, we think, for all ships.

We tried to minimize the loss of life, so we gave the Iranian forces a 20 minute warning that the attack was coming. They understood it. They heeded it. They left the platform. We observed a lot of them, and when we got to the platform itself later, we found it unoccupied. We conducted search and rescue operations after the conclusion of the shelling, and we did not find any Iranian personnel. They all were presumably taken off in one of their boats standing by.

We had no casualty. Our ships did not come under any fire. There was no reaction from the Iranians, and I think the mission was carried out in a highly professional fashion and done with great precision. It accomplished everything the President directed very quickly, very surgically, very cleanly.

The administration has indicated, Mr. Chairman, on numerous occasions since Monday that we consider this incident closed. There has been some odd reporting of that statement. What we said was that this incident is closed, and indeed, as far as we are concerned, it is.

This is not to say that the activity in the Gulf has ended or anything of the kind. But this was a specific response to a specific provocation. It was intended to, and I think it did, demonstrate forcefully to Iran that its irresponsible and its illegal behavior in attacking nonbelligerent merchant shipping engaged in innocent commerce will not go unpunished; that there will be a high cost to these kinds of attacks.

We did not say that it would be the last of the Iranian attacks, and, by the same token, we did not say that it would be the last response by the United States.

There has been very considerable speculation about the nature of this response that the President chose. There were a number of options available. The decision to remove this Iranian platform and its capability to contribute to hostile activities directed against innocent shipping was measured and appropriate to the provocation.

I am surprised always that some people characterize it as "hard" or "soft." When you put the amount of ammunition that we did into the middle of this platform and destroy its usefulness, I think it is a little hard to characterize it as anything other than a proper response.

But I think Iran and the world should have no doubt whatever as to the capability of the United States to take harsher measures should the situation warrant. If there are going to be further actions of this sort, it is entirely up to Tehran.

We are not at war with Iran. We have no desire for confrontation or to provoke hostile action. But I think we have clearly demonstrated that their behavior cannot continue without their paying a very real, painful, and heavy price, that we are fully capable of inflicting that, and, while the Iranian leadership is certainly fanatical and irrational on many things, I think they do weigh costs and they do weigh choices. At least the individuals there do. Individuals had a clear choice of staying aboard or leaving, and they left this platform.

We think that their government has the same basic understanding of the choices available.

Our general strategy from the beginning has been, and remains, based entirely on the theory of deterrence. Our military forces in the Gulf are present to protect U.S. flag shipping, of course. They are there to be able to retaliate if deterrence fails. That is exactly why we are in Europe, Japan, Korea, and at home here.

The forms of violence that Iran has chosen to employ, such as Silkworm missiles, naval mines, and terrorist activity, do not undercut this strategy of ours. The Silkworm attack on a U.S. flag vessel was in Kuwaiti territorial waters, where the protection responsibility then lies with the Kuwaiti Government, rather than in international sealanes. That was probably intended, I suppose, to create some sort of uncertainty in our decision-making.

But I think it should be crystal clear to the Iranians now that such an illegal and unprovoked attacks against our shipping, no matter where they occur, will not go unanswered, and that, indeed, has been the policy of the United States since we began as a nation.

The specific action taken last Monday was conducted only after fully informing the Congressional leadership well in advance of the attack. We think that is entirely proper.

We have continued to consult closely with the Congress on our Gulf strategy since early in the year, and through my report to the Congress on security arrangements in the Persian Gulf last June, and the extensive Committee hearings and briefings which I have done and which other senior officials of our Department and the administration have participated in, we have tried our best to keep Congress fully informed on events in the Gulf as our operations evolve.

During the August recess, we kept up these exchanges by telephone, and, without going into extensive operational detail, which, of course, we do not do publicly for obvious reasons, I would like to take this opportunity to describe just some of the changes that have taken place in our force since early summer and the beginning of our escorting program in July.

As a matter of fact, Mr. Chairman, we have briefed in various ways the various groups over a hundred times, to the Congress, since this operation began, and we think that is entirely proper. We of course will continue that.

We thought that MIDEASTFOR, composed of the LaSalle and five combatants would be adequate when we first began if it were augmented by three additional warships, bringing the total to eight. That was prior to the first convoy.

MIDEASTFOR combatants are all equipped with surface to air missiles, close in defensive weapons, and the need for increased air surveillance during the transit operations resulted in the Royal Saudi Air Force's establishment, at our request, in launching a new AWACS orbit to supplement the ongoing ELF I AWACS patrol in the northern Gulf.

The Saudi Arabian Government committed to providing fighter air support for its own southern AWACS orbit, as well as for the American AWACS.

Air cover for the tanker convoys was judged necessary only during the transit of the Silkworm envelopes or threat area in the Strait of Hormuz itself, and that is provided by our carrier based aircraft from the carrier battle group in the Gulf of Oman.

As the threat changed and our appreciation of the growing nature of that threat, of course we added force levels. We always do that. We have been in the Gulf since 1949, with various levels, and those levels were determined entirely by the nature of the threat to the freedom of the seas and the ability to make sure that innocent, nonbelligerent commerce can pass freely on those open waters.

The Bridgeton mine incident, during the transit of July 24, highlighted attention on Iran's ability and willingness to spread random threats to shipping. So we obviously felt that the force needed enhancement, because we always believe in having actually perhaps more than is necessary militarily, to be sure. So we deployed an airborne mine countermeasure helicopter squadron, a support ship for that squadron, the Guadalcanal, and Kuwaiti owned tugs were brought into service to conduct minesweeping operations in front of the convoys. We deployed minesweeping boats aboard the Raleigh, to be delivered there, and to provide organic surface countermine capability while the oceangoing MSOs could reach the region.

The Iranian high speed boat threat and other unconventional activity then stimulated deployment of fast patrol boats of several variety. The USS Missouri battle group now is deployed in the North Arabian Sea for support and also for deterrence. It is a very good deterrent.

We have communicated repeatedly to both Iran and the Soviet Union that we fully intend to reduce the level of our deployment as the threat recedes. But we are not contemplating "withdrawal" from the Gulf.

Senator Helms is quite right. That is one of the things you hear most when you travel in that area, a fear that we are not there with any degree of permanence, resolution, or will. This is one of the things that initially reduced the level of contribution from other states. As our resolution, will, and capability have been demonstrated on a continuing basis, the contributions from those neighboring areas have increased markedly.

We are not contemplating withdrawal.

Our national interests require our continued military presence, and these interests are long-term and compelling. As I say, we have been there since 1949, and I sense no lack of consensus on the nature and importance of these interests either in the administration, in the Congress, or in the public.

Our Gulf policy has been criticized by some who have said it is unclear, that it is open-ended, that there is no means by which to measure its success. There have been some attempts even to use my own words in a talk I made a few years ago as a yardstick by which to measure the perceived deficiencies in our policy. But I think the measures and the criteria I set up at that time are fully met by our activities in the Gulf now.

We undertook our expanded security arrangements with four objectives. I think they are clear.

We want to maintain freedom of navigation for U.S. flag vessels. We want to preserve Free World access to the oil resources of the region. We want to promote the security and stability of moderate Gulf Arab regimes in the face of Iranian intimidation and prevent the spread of Iranian radicalism. We want those nations to know that they can count on us. And we want to limit the expansion of Soviet influence in the region, an influence which the Russian Government, actually—before it was Soviet—has always wanted to fulfill.

Mr. Chairman, you mentioned a quotation that appeared as being from me, that our military objectives are not vague, but are quite specific: to pursue freedom of the seas and freedom to pass freely over international waters. I do not think that in any sense broadens the original commitment. That is a summarized statement, and obviously we are talking about the Persian Gulf area. But long before Woodrow Wilson talked about the freedom of the seas, this has been the policy of the United States Government.

So I do not think there is any broadening or change there.

We can count the "victories" from time to time, if you want to put it that way. These first two objectives that I have just mentioned are obtained every time a tanker convoy moves through the Gulf safely, and the security and stability of our friends in the region—and we urgently need friends in the region, and of the member states of the Gulf Cooperation Council—all of these things, their security, their stability, may be somewhat more intangible. But it is clear from their public and private statements that they have been greatly reassured by our actions now and that they would regard it very seriously if we pulled out or were pulled out from an area where our interests and their interests are coterminus and need to be shared and need to be secured.

Allied support and participation is another indication, I think, of the basic soundness of our policy. We have succeeded also on the last objective of limiting the spread of Soviet influence. They have been given three ships of the Kuwaitis to protect. They have three vessels of their own doing that. One of them was struck with a mine. But they have not been granted access to facilities anywhere in the region, other than in the countries that already have a strong, Marxist slant. We and the Western allies are able to sustain a very considerable course with the support of host nations in the area.

I would like to make one point that I think is not often appreciated, and that is that our allies in the Gulf, doing the same thing we are doing, have more ships than we do. They are making a greater contribution when you add it all up. There are about 40 ships of other nations doing what we are doing, and we have about 31 or 32.

So, we are not alone. We are not pursuing a policy that no one else supports.

In response to the question that is so frequently asked, why are we in the Gulf at all, I would simply reiterate these four basic objectives.

It does not revolve, really, around the percentage of oil that we or our allies take out of the Gulf. Our allies take out a very considerable amount; we take out some.

It does not really revolve around how much of the oil goes out through pipelines or how many tankers have been attacked.

I think the real question is one of leadership, whether the United States wishes to continue to serve as leader of the Free World and to exercise its responsibilities as that leader. Leadership carries responsibilities, and those responsibilities carry cost. It is not risk free.

We understood that from the beginning, and we have taken prudent steps to minimize those risks. And we have also considered the risks of not doing what we are doing, and the perception that would be spread very widely and sadly, I am afraid, if we pulled out or if we neglected to undertake the request of our friends, and that would be that the Gulf is open, is a vacuum. Then I think you would have seen in a short time considerably more than three Soviet ships there with considerably greater influence.

The real cause of instability in the region, of course, is the Iran-Iraq War. Our commitment in the Gulf is not open-ended, except insofar as Iran remains intransigent in accepting the provisions of U.N. Security Council Resolution 598 and hostilities continue.

Military initiatives have received a great deal of attention. But it must be kept in mind that the United States was the driving force behind the unanimous passage by the United Nations of that resolution which called for the ceasefire. It is critically important to pursue, as we are doing, to try to get compliance with that, but also to get a follow-on resolution that imposes sanctions against the intransigent party, which is Iran.

Only if Iran is forced to accept the fact that it cannot win its war with Iraq, which has accepted 598 in full, only then can peace and stability return to the region.

If we can get an embargo resolution, and if it will be fully carried out by all the nations, then I think we could bring Iran to her knees in a very short time and that war would end, and there would be an ability to return to peacetime levels in the Gulf.

But I think we should never leave the Gulf.

Thank you very much, Mr. Chairman.

[The prepared statement of Secretary Weinberger may be found in the appendix.]

The **Chairman**. Thank you very much, Mr. Secretary. You can see from our attendance here that there is much interest in your statement. We will follow the ten minute rule, each of us limiting ourselves for that period of time. I would ask the timekeeper to let us know of its expiration.

Forty-two years ago, I was in your lovely city of San Francisco, when the United Nations was being born. We worked on that charter for four months. We worked very hard on Chapter 7, with respect to threats to the peace, breaches of the peace and acts of aggression.

If ever there were a situation that would seem to me to be designed to set up a United Nations Peacekeeping Force, perhaps along the lines that former Secretaries Vance and Richardson have discussed, it would seem to be here. The argument is being advanced that we do not want the Soviets participating in it.

But, rather than always strong-arming the Soviets, if we could work out a peacekeeping force under the U.N. umbrella, with a U.N. task force, with the commander perhaps an American commander but flying under the U.N. flag, why would that not be a pretty effective way of getting the American exposure reduced, of achieving our objectives, and of moving down the path that we thought 42 years ago was a good one and which I still think is?

Secretary WEINBERGER. Well, sir, we do have, de facto, a international force at the moment. We have British and France, Italy, Belgium, and the Netherlands, all contributing directly to the effort, with more ships, as I have said, than we have.

We have Japan and the Federal Republic of Germany making major, indirect contributions, and continuing and perhaps expanding those. And we have a number of contributions of a very major kind from the littoral nations of the Gulf.

All of this constitutes, I say, a de facto international group.

The United Nations Peacekeeping Force does not work in the absence of agreement by both of the belligerents involved. Iraq has said very flatly that they do not wish that kind of solution and would not accept it. Consequently, it seems to me that we have that situation in the Gulf.

We also have missed a lot of the burdens of it because it would put the Soviet Union in a situation where they could veto or control in a negative way that kind of activity. They have very different and very adverse interests in the Gulf to ours.

As I have said for years, they have wanted, for centuries, really, a warm water port. They have always wanted access to the Gulf.

It is the reason, I think, Mr. Chairman, that they have used their own forces in Afghanistan for the first time since World War II. They obviously would like to deny us access to the oilfields of the Gulf.

So I think, from every point of view, what we are doing is necessary and the way we are doing it is the proper way to do it.

The CHAIRMAN. I appreciate your thought. But, as you know, Chapter 7 does not depend upon the agreement of the belligerents to make it operate.

You mentioned in your answer that this would not work unless Iran and Iraq agreed to it.

The whole purpose of Chapter VII and the military enforcement arrangements, is to have some means of sanction, even when the belligerent parties are opposed.

Secretary WEINBERGER. I think, Mr. Chairman, if you are talking about a peacekeeping force, it is essential that you have the agreement of both sides. That was the problem with a somewhat similar situation in Lebanon, where the peacekeeping force was supposed to go in to separate and stand between departing armies on both sides. No agreement was reached, the armies did not depart, and the function cannot be fulfilled under those circumstances.

But in this situation, as I have mentioned, you have not only that factor but you have the factor that under the United Nations you would have a potential and continuing veto capability in the Soviet Union, and you would also have their presence there in much greater numbers in an area where their presence is basically adverse to our interests.

The **Chairman**. Then the real reason, the basic reason that you are concerned about, is the Soviet participation?

Secretary **Weinberger**. No.

That is one of them, but I think the other one is extremely important, too.

The Soviets are there; they were there in small numbers. But if they were brought in as part of a United Nations force, they would be there in larger numbers and they would be able to manage and dictate a veto to the whole operations.

This way we have nations that want to be there, that are there on an independent basis, though we are working together on the technical side in many effective ways.

The idea of having it as a U.N. force itself, under U.N. direction, would give, I think, an undesirable control to the Soviet Union over there.

In any event, you don't have any real way of finally concluding the situation, as I said at the end of my statement, until or unless there is an end to the Iran-Iraq War and the United Nations is or has been brought in to try to secure that, as I just mentioned.

We passed the one resolution under our leadership directly, unanimously, and we would hope that soon they would take favorable action on the embargo resolution.

If the embargo resolution were passed and carried out—that is the big thing—people frequently say an embargo never works. If the embargo resolution were carried out, then you could dry up very quickly Iran's capability of conducting the war and, indeed, their ability to exist as a nation, because roughly 90 percent of its exports are oil, and if nations would simply refuse to buy that, if we would stop buying it and would stop selling them anything, then in a very short time this matter would be resolved.

That obviously is the best way to resolve it. That would remove the instability and that would enable us to come back down to normal levels in the Gulf.

That is what we are urgently trying to do.

But, sir, if we wait for that and it never happens, then you have had an effective drying up of the ability of international commerce, vital commerce, innocent commerce, to pass on open waters. That violates every rule we have ever tried to enforce as a nation.

The **Chairman**. I appreciate your thoughts. I think next week we will have former Secretaries Vance and Richardson expressing their views on this.

Secretary **Weinberger**. Yes.

The **Chairman**. Maybe there would be some way found where we could use the U.N. banner and it it under the Military Staff Committee. If the Soviets participate in it to a minor degree—not to a minor degree, but to a substantial degree—it would seem to me when they can be brought into civilizing activities, with a concert of nations, with the family of nations, it is to our advantage.

Secretary **Weinberger**. I am familiar with their proposals. I would only say if that should be the result, if that should be the policy chosen, the military staff committee of the United Nations would, at the very least, require major revision .

The **Chairman**. Absolutely, and upgrading of people who are sent there, too, at the very least, not as a last burying place.

Secretary **Weinberger**. It is not now capable of doing anything except what they now do, which is not effective.

The **Chairman**. On that I would agree with you completely.

I do not want to pursue this line for too long or my time will expire shortly.

Under what circumstances would you consider the mission of our vessels there completed?

Secretary **Weinberger**. When there is no longer any threat, any obvious, overt threat to the passage of free, nonbelligerent, innocent commerce over these international waters.

The **Chairman**. Thank you very much.

Secretary **Weinberger**. Thank you, sir.

The **Chairman**. Senator Helms.

Senator **Helms**. Thank you, Mr. Chairman.

Do I deduce from your statement just now that the administration and/or the Defense Department—not that they are separate—has formulated a policy on the embargo of Iranian oil?

Secretary **Weinberger**. Do you mean about our continued purchase of Iranian oil?

Senator **Helms**. Pardon?

Secretary **Weinberger**. Is your question has a policy been formulated about our continued purchase of Iranian oil, is that it?

Senator **Helms**. That's what it amounts to, embargoing.

Secretary **Weinberger**. I think there is not a formal policy, sir. No. I confess to having made several public statements strongly favoring that. I think the policy is still under formal consideration.

There are a number of arguments that are being made that embargoes do not work and so forth.

So I think there has not been a formal adoption of an administration policy yet.

Senator **Helms**. Has there been a rejection of it?

Secretary **Weinberger**. No, sir.

Senator **Helms**. The hangup is not in your shop, is it?

Secretary **Weinberger**. No. We have made our position extremely clear.

Senator **Helms**. I think you have.

Let's turn back to the War Powers Act. I find myself wondering from time to time how much people in other countries know and understand what is going on in this country.

This is not to say that we understand it all the times ourselves.

What is their level of awareness of the War Powers Act among the countries in the Gulf region?

Secretary **Weinberger**. I think, Senator, it obviously varies from country to country. I think there is considerable puzzlement where we are now getting very substantial support. As to the mechanics of it, how it would work, and why, if we go in and feel it is necessary to start a military action, why it might be terminated automatically.

I think your question is whether there is understanding of it. I think there is an increasing understand of it, but an increasing unhappiness, frankly, with it.

We have a situation under that act, of you know, announcing to the world, our allies, and our enemies. It's a timetable under which, as a particular day approaches—60 days, 90 days, whatever—in the absence of a favorable action by the Congress, American forces will have to come out.

Militarily, this is a source of considerable wonder and puzzlement to other countries.

What it means is that you are telling your enemies and your allies, that at a certain date, regardless of the outcome, your enemies will be able to achieve their objective without any military activity on their part, or by increasing their military activity in an attempt to influence our public opinion.

I think the rigidity, the timetable, the automatic nature of the thing is a source of considerable concern to these other nations, as it is indeed, for me.

From the military point of view it is extremely dangerous to have a situation in which the world knows that the forces engaged in activities that we believe are necessary and will suddenly terminate on a particular date, without regard to anything else happening in the military situation.

I think this is a very real concern to nations working with us in this endeavor.

Senator **Helms**. I remember when the debate was in progress, and even before, about the War Powers Bill. Senator Ervin said "not only is it unconstitutional, but I cannot imagine anything more self-defeating under various circumstances in terms of the conduct of foreign policy and the protection of the national interests of the United States."

In my judgment, I think Senator Ervin was exactly right.

Now I am not trying to get you to read any minds, but has the possibility, remote as it may or may not be that Congress may invoke the War Powers has this affected the policies of Iran or the other Gulf states in any way?

Secretary **Weinberger**. I have to say that I think it gives Iran a continuing objective toward which to work, feeling that if they can, for example, by increasing terrorism, by increasing mine attacks or attacks by these silkworm missiles, or other things, they can have the opportunity, the hope, from their point of view, of influencing adversely American opinion and try, thereby, to force the carrying out of these provisions that could, as I said, in the absence of an affirmative favorable vote would force us out of the vote.

There are other variations of that, where we are allowed to stay in but are forbidden to do anything. All of these are opportunities that it gives to very hostile nations—and there are few nations more hostile to us now than Iran—the opportunity to take advantage of our own public opinion and try to influence it and try to force activities that secure for them a result that they cannot secure in the field or in the Gulf.

Senator HELMS. Mr. Secretary, you have alluded to the cooperation of our allies. But we all know that there was some reluctance or some hesitation at the outset.

Do you think that this reluctance or hesitation was based on apprehension that we might renege on our commitment?

Secretary WEINBERGER. I think that was part of it.

I think, to a very considerable extent, that has been overcome now. But it has been overcome with the worry still remaining.

When I was in the Gulf a couple of weeks ago, this was the view that was expressed many times: Are you there? Are you really there? Can we count on you? Does America have the resolution to stay?

I think that is a continuing worry.

I think there were a lot of reasons perhaps at the beginning, different ones for the Mideast nations than perhaps for the European allies. But it is not only surprising, but very gratifying to me how quickly that reluctance faded when it became apparent to them that the factors that we presented, that I presented to many of my colleagues, to many heads of state, my calling for some support and cooperation, how quickly it was apparently realized that these were very valid points.

As I say, there are more ships now of allied nations—not even counting the Gulf states—in the Gulf than we have. I think that is entirely proper. We all have comparable interests in keeping this international body of water open for this vital, innocent, nonbelligerent commerce.

Senator HELMS. Maybe they took note of the fact that there was some discussion about this policy in the United States Senate that took time, more time, and more time. Maybe they decided that we were not going to race into this.

Secretary WEINBERGER. The point was made to them that failures to participate were not viewed well at home, and, even beyond that, that it was still vital for their own interests to participate.

They are participating now in a way that few people would have considered possible just a few months ago.

Senator HELMS. Along another line, what is the current Soviet military presence in the Gulf?

Secretary WEINBERGER. They have three warships. They have a frigate and two minesweepers, and they have a task of initially protecting three Kuwaiti ships. One was hit by a mine, so they are now protecting two.

Senator HELMS. Has the Soviet Navy been escorting Soviet flag vessels operating in the Gulf?

Secretary WEINBERGER. Yes. They are protecting their own ships delivering military cargo.

Senator HELMS. So this is what they are doing. Has this been going on from the beginning?

Secretary WEINBERGER. Yes.

Senator HELMS. This next is a fact that is so often ignored. The Soviets are the main supplier of arms to Iraq. Are any of the escorted ships, those being escorted by the Soviet Navy, transporting arms to Iraq.

Secretary WEINBERGER. Yes.

Senator HELMS. They are?

Secretary WEINBERGER. I believe so. Yes, sir.

Senator HELMS. What has been the Iranian reaction to these shipments? I want this for the record.

Secretary WEINBERGER. What has been the reaction of Iran to this?

Senator HELMS. Yes.

Secretary WEINBERGER. Well, I think, first of all, Iran has tried to buy and has bought some Soviet weapons that they feel they need. They have not taken any military action that I am aware of to block the deliveries of Soviet ships.

Senator HELMS. I think if I get into another question, I will run out of time, Mr. Chairman. So I will wait until the next round.

Thank you very much.

Thank you, Mr. Secretary.

The CHAIRMAN. Thank you very much.

Senator Sarbanes.

Senator SARBANES. Thank you, Mr. Chairman.

Good morning, Mr. Secretary.

Secretary WEINBERGER. Good morning.

Senator SARBANES. Mr. Secretary, are the news reports correct that Admiral Bernsen, the Middle East Force Commander, has requested that the Rules of Engagement in the Gulf be expanded so that he could undertake to protect all neutral shipping?

Secretary WEINBERGER. I don't think that is totally accurate. No, sir.

We have continuing—the reason I am hesitating is that we have continuing discussions back and forth about the Rules of Engagement, which we believe are clear, and which, generally speaking, I think, are well known to the public. But if different situations arise so that different conditions may be considered desirable, why then Admiral Bernsen and Admiral Brooks will report those back and forth.

I do not recall any specific request for expansion. But there is a continuing, ongoing discussion about the adequacy or about particular interpretations. That takes place on a regular basis.

A lot of it is still classified. But the basic outlines of the Rules are, I think, well known, and that is that Field Commanders, commanders of ships, planes, and so on, are authorized to take immediate, appropriate retaliatory action against hostile acts. And when hostile intent is demonstrated, as it is by an Iranian ship locking its radar on or a plane getting into a position from which it could launch an attack, then that is evidence of hostile intent.

Senator SARBANES. Attack on whom?

Secretary WEINBERGER. I'm sorry?

Senator SARBANES. An attack on whom in that circumstance?

Secretary WEINBERGER. On an American ship or on a ship that we were escorting.

Senator SARBANES. Now we are escorting ships flying the American flag, is that correct?

Secretary WEINBERGER. That's correct.

Senator SARBANES. These are primarily the reflagged Kuwaiti tankers?

Secretary WEINBERGER. Yes, sir.

Senator **Sarbanes**. So with respect to those ships, we have these Rules of Engagement.

Secretary **Weinberger**. Yes, sir.

Senator **Sarbanes**. And we have similar rules with respect to the American warships that are in the area, whether they are escorting other vessels or not. Is that correct?

Secretary **Weinberger**. That's correct.

Senator **Sarbanes**. Do we have similar rules with respect to any other ships?

Secretary **Weinberger**. We have rules that basically apply to American or American flag ships. There is, however, a broader rule that has been in place for centuries, and that is that a ship or persons in distress have a right, and we recognize our obligation, to perform rescue missions and to try to extend assistance to them.

This is true all over the world.

Senator **Sarbanes**. Does that mean that if any ship traversing the Gulf comes under attack, we would then send our forces to its support?

Secretary **Weinberger**. No, not necessarily.

What it means is that if we are aware of a ship under attack and that the people thereon are in need of assistance, in common with the Rules of the Sea that prevail in all civilized countries, we would attempt to help.

Senator, I think we are getting close to a classified area with respect to portions of the Rules of Engagement, which I would be glad to go into with you in closed session. The reason for classification is obvious: we do not want to convey to a very hostile nation precise conditions under which we would do various things or we would not do various things.

But the broad outline with respect to hostile intent and hostile acts I think are well known, and they have served us well.

They are basically the same rules that we had with respect to the actions against Libya, when Libya attempted to declare the Gulf of Siddra to be closed waters.

Senator **Sarbanes**. I will be happy to pursue it in a closed session.

I would only, Mr. Secretary, quote to you your own Executive Summary of the Report to the Congress on Security Arrangements in the Persian Gulf: "Protecting 11 Kuwaiti ships under U.S. flag is *not*"—that is your italic—"part of an open-ended, unilateral American commitment to defend all nonbelligerent shipping in the Persian Gulf."

Secretary **Weinberger**. That's correct.

Senator **Sarbanes**. What would have to occur in order to justify bringing the convoying of the Kuwaiti flag tankers to an end?

Secretary **Weinberger**. I tried to cover that earlier, sir. I think basically what would have to happen would be that you would have to get some stability in the Gulf, probably ending the Iran-Iraq War, certainly ending the tanker war, so that there would be no longer not just a suspicion but a well-founded judgment that nonbelligerent commerce is going to be attacked indiscriminately by Iran.

Primarily, we think that will happen when the war ends or when we are able to get such a United Nations resolution as I mentioned, not only the embargo resolution passed, but enforced.

Senator SARBANES. So it is your view that we have undertaken the convoying for a period lasting at least until the end of the Iran-Iraq War?

Secretary WEINBERGER. At least until stability returns in that region, which we think would be most likely to occur when that war ends, yes, sir.

But, again, I emphasize that this is not anything that is unusual or different.

We have had varying levels of threats in the Mediterranean, in the Caribbean, and certainly in the Gulf, and in other international bodies of water. When those threats increase, we increase our forces that are there, designed to insure that innocent commerce can pass.

That is essentially what is happening now. We keep those forces there until the threat is diminished, and then we reduce them.

That is what we want to do; that is what we are doing.

It may well be that, as allied strength comes in, even though each one is operating separately, we would be able to make some reduction.

We have made considerable fluctuations and changes in our strength in the last three or four months.

Senator SARBANES. If a chaotic situation were to develop in Iran, would it be your expectation that the Soviet Union would seek to exploit it?

Secretary WEINBERGER. That they would seek to exploit it?

Senator SARBANES. Yes.

Secretary WEINBERGER. Oh, probably. They like to fish in troubled waters all over the world. Yes.

Senator SARBANES. Is it possible that U.S. responses to Iranian attacks on shipping in the Gulf could contribute toward the development of such a chaotic situation in Iran?

Secretary WEINBERGER. No. I don't think so.

I think there is a chaotic situation in Iran and it has been there since 1979. I think it will continue.

Senator SARBANES. So you do not foresee a situation in which the United States, in effect, retaliates against Iran and then subsequently has to move in to defend Iran against Soviet efforts to exploit the situation?

Secretary WEINBERGER. No.

Senator SARBANES. You do not have any concern about that scenario?

Secretary WEINBERGER. You have concern about everything all over the world. You can't not to in this kind of world.

But you have to look at likelihoods and probabilities.

I think, Senator, the answer is that as long as it is perceived correctly by the Soviets that we are there, in strength, with resolution and will, and are going to stay there to carry out this basic mission that we have carried out all over the world since our formation as a nation, they are not going to feel that they can move in.

If they felt they could move in without serious cost to them, which they perceived they could do in various other parts of the world, such as Angola, Cuba, Nicaragua, places of that kind, then they will do it.

Senator **Sarbanes**. Mr. Secretary, I am not talking about them moving into the Gulf. I am talking about them moving into Iran——

Secretary **Weinberger**. Yes, I understand.

Senator **Sarbanes** [continuing]. And the opportunity for moving into Iran, although it is not what you intend, may, in fact, be presented to them by U.S. retaliatory actions against Iran.

Secretary **Weinberger**. I don't see that as any greater possibility because of the U.S. retaliatory actions or not.

If their conclusion is that their national interest dictates that they should move in directly and affirmatively and visibly into Iran, they will do it.

I do not think that anything that we are doing to protect our interest is going to affect that—except in one way. This is what I was trying to complete my answer on a moment ago.

It is this. If they perceive that they can do that without any cost to themselves because we are not there, and that there is not any real deterrence to their doing that because of the situation you postulated in Iran and so on, then I think the likelihood of their doing that is increased.

But I do not think the likelihood of that is increased—in fact, I think it is exactly the other way—if they do perceive that we are there and there to stay, and that they cannot do that, the kind of activity that is cost-free to them.

Senator **Sarbanes**. The Soviets are supplying arms to Iraq, is that correct?

Secretary **Weinberger**. That is correct.

Senator **Sarbanes**. The Iraqis, of course, are attacking the Iranians.

Secretary **Weinberger**. Sir, they are not attacking them. They are at the moment, and have been for some time, in a situation in which they are trying to get the war ended. They have practically no offensive land operations going against Iran. But they do try to attack economic targets.

Senator **Sarbanes**. Do you think the perception that some have is accurate that the U.S. reflagging of Kuwaiti ships constitutes indirect support for Iraq because of Kuwait's support of Iraq?

Secretary **Weinberger**. Well, it may have that effect.

That is not the intention of it, and I do not think that the direct effect is that way.

What we are doing, as I say, is what we have tried to do since 1789, and we fought a couple of wars over it, and all the rest, and that is to make sure that international commerce, on American ships in this case, on American flag ships, gets through international waters. That may indirectly from time to time benefit one country or another country.

But that is not the purpose of it, and I do not think that the effect of that is all that direct.

Senator **Sarbanes**. Mr. Secretary, I would just close by observing that it seems to me the best way to avoid that possible interpretation is to move in the direction of U.N. flagging of all nonbelligerent ships. This would clearly underscore the principle of free passage in international waters, and would not place us in the posture of having apparently aligned with one country for an involvement in the substantive aspects of that conflict. Such an approach would support and underscore the principle of free passage, which you have enunciated in your statement as one of our major objectives.

Secretary **Weinberger**. I would reiterate all of my objections to the idea of a United Nations force, and all of my worries about its ineffectiveness. I would emphasize, sir, that five other major nations are doing exactly what we are doing in a very supportive way to the cause we have undertaken, and two other major nations are indirectly furnishing great support. Virtually all of the littoral states of the Gulf are making major contributions.

The **Chairman**. Thank you very much, indeed, Senator Sarbanes.

Senator Lugar.

Senator **Sanford**. Mr. Chairman, I wonder if Senator Lugar would permit you to go out of order and call on Senator Adams, who is scheduled to preside right away elsewhere.

The **Chairman**. Would that be agreeable to Senator Lugar?

Senator **Lugar**. I would be happy to yield.

The **Chairman**. Senator Adams.

Senator **Adams**. Thank you, Mr. Chairman and Senator Lugar. I will just ask two questions this morning.

Mr. Secretary, it is a pleasure to see you this morning.

Secretary **Weinberger**. Good morning.

Senator **Adams**. Mr. Secretary, are we engaged in hostilities in the Gulf?

Secretary **Weinberger**. No, I don't think so.

Senator **Adams**. You do not think that our shooting and their shooting involves hostilities?

Secretary **Weinberger**. No.

I think that within the definitions and the intent of the War Powers Act, there is not that condition there now.

Senator **Adams**. I wasn't asking about the War Powers Act. I was going to ask that second.

You do not think that there are hostilities when we shoot and kill and they shoot back?

This is not hostilities?

Secretary **Weinberger**. Well, there are all different kinds of ways of defining it, Senator, and I have to tell you that my definition, and I believe the definitions intended in the War Powers Act, whatever we may think of its constitutionality, are not now present.

Senator **Adams**. Second, Mr. Secretary, suppose we were to put in a resolution under the War Powers Act to carry out the goals that you set forth in your prepared statement, where you indicate that these are our goals and these are the policies to carry it out, but that we did not want the mainland assaulted with troops, and we did not want escalation by basic attacks. We would then have a resolution under the War Powers Resolution that carried out your goals that you have stated and would clear up all ambiguity that may exist.

Would you support that?

Secretary **Weinberger**. No, sir.

The first part would be fine, if you were supporting what we had been doing thus far, and supporting those basic objectives.

But when you go further and pass a resolution which requires the determination of various kinds of military and related activities to be guided by a Committee in debate and vote, you have an impossible situation for the men that we ask to carry out these very difficult and dangerous tasks for us.

It is not a practical way of carrying out these kinds of activities.

Senator ADAMS. Mr. Secretary, I am talking about some very basic policy. I am not talking about tactics. I am talking about something that would say that you had to come to Congress before you invaded Iran.

You would not even accept that?

Secretary WEINBERGER. Well, sir, it is very difficult to deal with hypotheticals and generalized terms that change from paragraph to paragraph because earlier I thought you said something quite different.

Senator ADAMS. No. I mean carry out your goals which are stated here on pages 6 and 7, but simply, so that we would know when to declare victory and when to accomplish our policies, that we would say if you want to invade, you would come to the Congress. That is all I am asking.

If you are not in favor of it and you feel you have the power to proceed, that is all I want to know.

Secretary WEINBERGER. No, sir. I do not want to try to deal with a changing list of hypotheticals as to what might or might not happen. But a resolution that endorses the goals that I have set forth here, which I understand are the administration's goals, would, of course, be welcome. But a resolution which said if you want to do one, two, three, and four, and attempted to name them, then you had to take these following actions, it is simply not a practical way, nor do we believe a constitutional way, to carry out the foreign policy of the government.

Senator ADAMS. Mr. Secretary, have you considered or are you prepared to just simply take the matter to court and let them decide the constitutionality, so that we don't have to go back and forth about this?

Secretary WEINBERGER. I understood that that has been done.

Senator ADAMS. Yes, but the administration has not joined issue and filed for a declaratory judgment.

Secretary WEINBERGER. Oh, I think we have.

We have filed the appropriate responses to that law suit by 100 Members of the House.

Senator ADAMS. Indicating "No standing."

Secretary WEINBERGER. Indicating our opposition to the position taken in the lawsuit.

Senator ADAMS. No.

Indicating "No standing." That is the problem. We can't get a decision.

Secretary WEINBERGER. The reluctance of American courts to give advisory opinions is well understood.

Senator ADAMS. I am not talking about an advisory opinion. Just a declaratory judgment one way or the other.

Secretary WEINBERGER. There is a declaratory judgment act in some states, but it is not a matter which the courts generally have favored doing. They prefer actual controversy.

Senator ADAMS. I thank you, Senator Lugar, for giving me the opportunity. I will leave to preside and will return as soon as possible. You were most kind to do so.

I thank the Senator from North Carolina for his indulgence, and I apologize to the Senator from Massachusetts for taking part of his time.

The CHAIRMAN. Thank you very much.

Senator Lugar.

Senator LUGAR. Thank you very much, Mr. Chairman.

Secretary Weinberger, would you return to the item that Senator Helms asked about concerning Soviet shipping in the Persian Gulf.

You said, if I heard you correctly, that you believe the Soviets have ships in the Persian Gulf that are supplying arms. I think you further indicated they were supplying arms to Iran.

Secretary WEINBERGER. To Iraq.

Senator LUGAR. To Iraq.

Secretary WEINBERGER. And we also believe they have made some sales to Iran, too.

Senator LUGAR. Have they made those by sea?

Secretary WEINBERGER. I would not be able to go into that, Senator. They have made I think many visible sales to Iraq and I think they have made some to Iran.

Senator LUGAR. Are Soviet warships in the Persian Gulf protecting these ships that are making the arms shipments?

Secretary WEINBERGER. They have had naval convoys doing that, yes, sir.

Senator LUGAR. And to the best of our knowledge, there have not been attacks on the Soviet warships or the ships supplying arms?

Secretary WEINBERGER. That is my understanding. But there was an attack on a Kuwaiti tanker that they were chartering.

Senator LUGAR. One of the leased tankers, one of the three.

Secretary WEINBERGER. That's right. It hit a mine.

Senator LUGAR. But it hit a mine and, therefore, it was an indirect attack.

Secretary WEINBERGER. Well, you can go down with an indirect attack as well as a direct one.

Senator LUGAR. But so far as we know, the Iranians and the Iraqis did not use airpower or Silkworm missiles or any other overt activity to hit the ship?

Secretary WEINBERGER. Not thus far.

Senator LUGAR. I ask this simply to ask you to further clarify what you believe is the importance of the Persian Gulf to the Soviets. One of the objectives you and others have mentioned from time to time is support of our presence there is that it has something to do with the Soviet activities, their presence, their potential hegemony.

Could you describe that part of our objective and why that is important to us?

Secretary WEINBERGER. Well, I think, first of all, long before they were communist, the Russian Government has wanted a warm water port, and the Gulf ports are warm water ports, very warm, as a matter of fact.

They, over the centuries, have wanted to have this.

Lately, as it became apparent that there was an enormously valuable resource in the Gulf, they have had as an objective the unlimited access to that themselves, and the desirability from their point of view, their idea of world domination, the denying of that resource to the West.

I think all of these objectives coalesce in making it a long-term objective of the Soviet Union, to try to get themselves in a situation in the Gulf where they can have unlimited access to the oil fields and deny that to the West at the same time they have a warm water port.

I think if we were not there, or if we were pulled out, or if it became apparent that we were not willing to make the effort required and to expend the resources necessary to be there, then I think they would feel that they had the kind of situation that they normally regard as favorable to their aggressive actions; that is to say, a low cost and little chance that they will be repulsed, that the correlation of forces, as they put it, is favorable to them, and that they would move in.

One of the objectives that we have is not allowing that to happen or not encouraging that to happen by our failure to be there.

But, as I say, the other objectives that we have are equally clear and equally specific, and they involve the importance of insuring that innocent, nonbelligerent commerce has the right to pass freely over these waters.

Senator **LUGAR**. As you pointed out, if we were not there, it would be a favorable situation for Soviet expansion.

What was the situation the President faced at the time the Kuwaitis asked the Soviets to lease three ships and asked us to reflag 11? When the Soviets replied favorably to that situation, did this impel the President in any way to move as he did?

Secretary **WEINBERGER**. I am not quite sure that the timetable is just the way you phrased it.

My understanding was that the Kuwaitis asked us first if we would protect their own flagships against increasing risks that they saw from Iran. Our reply at that time was favorable, that yes, we would help, that this was something we would do.

They then asked if we would do it if they reflagged the ships, and meanwhile they had asked the Soviets if they would do it.

I don't think it was the driving factor of the President's decision, but it certainly was an element in that decision, I am sure.

Senator **LUGAR**. Well, if the Soviets had replied affirmatively, as they did, and we had said no, what would have been the situation in the Persian Gulf at that point?

Secretary **WEINBERGER**. The situation would have been that the Soviets would be there, demonstrating to neutral, basically moderate, Arab nations that they could not look to the United States for any assistance but they could look to the Soviet Union for assistance, and that would set the stage for the kind of action that I indicated a moment ago we felt would happen as the correlation of forces became increasingly favorable to the Soviet Union.

Senator LUGAR. Now, if that had occurred, and, of course, that could occur if for some reason our ships were suddenly removed from the Persian Gulf——

Secretary WEINBERGER. Indeed, yes.

Senator LUGAR [continuing]. But if that had occurred, and the moderate Arab states knew that we really were not available to protect them and the Soviets were, and they already were in harm's way with regard to Iranian aspirations, whatever they might be, what could you foretell about the future of the Persian Gulf?

Secretary WEINBERGER. Well, I am afraid that it is rather easy, sir.

I am not very good at prophesy normally, but it seems to me to be very clear that what would happen would be that we would no longer have any of those states along the littoral of the Gulf, or, indeed, in other parts of the Mideast, that would be in any way favorably inclined toward the United States or would feel that we were a nation that could be relied on. And that, particularly coupled with refusals to make justified arms sales, could lead them to believe that there was no reason for them to either count on or pay much attention to the United States in the future.

This would open up, I fear, a vacuum that would be in the Gulf, and when the Soviets, as I am sure they would do, would move into that, in keeping with their long, long-standing policies as well as their continuing policies of world domination, then I think we would have the kind of situation in which, if we ever changed our minds, we could not get back into the Gulf without enormous cost in resources, far above anything anyone is talking about now.

Senator LUGAR. Just for the sake of the record, because sometimes Americans ask this question, why should we be worried about the Middle East? Some would ask why is this worth a single American life or a single American ship? Why not let the Soviets have it?

I appreciate that this is an astonishing sort of question, but it is asked. I just want to offer you a forum to respond.

Secretary WEINBERGER. Well, it is no more astonishing than the statement that Danzig was not worth a war and that we should not be in New Guinea because we have no business there and all the rest.

The short, quick, answer, sir, I think is perhaps two-fold.

It is vastly easier, vastly better, vastly less costly, to defend the United States forward rather than within the United States. Secondly, you cannot defend the United States unless you are forward deployed.

We need friends. We need places to be, where they want us to be. We need to help them. But we need to help ourselves.

We are not over there for altruistic reasons, though that is part of it, I think. But we are there because that is the very best place to defend our freedom and our peace.

Senator LUGAR. Let me just say, for my own part, that I believe you have achieved the aims that you sought. The Soviet influence has been contained. Clearly, Iranian influence has been contained. We have had out-of-area NATO exercises substantially more successful than on any occasion before, and much greater cooperation with moderate Arab states than anyone would have thought possible.

Secretary **Weinberger**. Indeed, we have.

Senator **Lugar**. Across the board, it has been a remarkable foreign policy success.

I appreciate that this must seem ironic to you on occasion, when day by day there are certain persons in this country who would pull the plug.

But hopefully they are not in the majority. It would appear that popular opinion, at least in terms of polls we have seen this week, indicates the American people, by a fairly large majority, understand the importance of the Middle East, understand our presence there, and also understand the risks involved. They understand there might be losses involved, as you say, in a forward extension of American authority.

Secretary **Weinberger**. That is very kind of you, Senator, and I agree with it.

I think it has been a policy which has thus far achieved and is helping to achieve—and I think it will take a long time to do it—all of our objectives. I think it is essential that we do it.

It is gratifying to see these polls. You cannot govern by poll, but it is gratifying to see these polls. It is also gratifying to hear your words.

You are quite right, we hear a great deal of other sorts of comments about it.

Senator **Lugar**. Thank you.

Thank you, Mr. Chairman.

The **Chairman**. Thank you, Senator Lugar.

Senator Kerry.

Senator **Kerry**. Thank you very much, Mr. Chairman.

Good morning, Mr. Secretary.

Secretary **Weinberger**. Good morning.

Senator **Kerry**. I am not one of those who wants to pull the plug. I support our being there. I think we have important reasons to be there. But I am one of those who thinks that we might be better served by being there in a form other than by the reflagging.

I wonder how you would make the point to us that our interests about freedom of the seas and navigation and anti-terrorism are best served by focusing narrowly on Kuwait, taking 11 Kuwaiti owned ships and reflagging them in a kind of "shammish" transaction, and not protecting some 40 U.S. owned super tankers that are owned by eight different U.S. companies that make four or five trips a year through the region.

Why don't we better serve our international interests in a multilateral action that focuses on the broader principle?

Secretary **Weinberger**. I do not think there is any basis for your assumption that we will not or are not doing it if we have had specific requests to protect these American flagships, which we are doing. We have not refused specific requests to protect other American flag shipping, and I think the reason that they have not come in is it is generally understood that our naval policy, our national policy, has been to protect our shipping when asked. I think that is generally understood.

I am not aware of situations in which various American-flagged shipowners have asked for protection and been denied it.

Senator KERRY. Well, Mr. Secretary, the Majestic Shipping Company wrote to Deputy Secretary Taft, seeking permission to tag along behind the convoys in order to get protection. They wanted the ability to be able to communicate with naval officials in the Persian Gulf, and they were refused permission to do so.

Secretary WEINBERGER. No, I disagree with you, sir. They were not refused permission.

Senator KERRY. Have they been accorded permission?

Secretary WEINBERGER. They were told that they could obviously sail where they wished to sail on international waters. That was our full policy.

Senator KERRY. They were told they could take their own risks, right?

Secretary WEINBERGER. But as far as specific joining of convoys, the convoys are made up to do the tasks that we have been requested to do and are sized and designed and planned entirely for the protection of the ships within that convoy.

But no one has ever said you cannot sail where you wish to sail.

Senator KERRY. I understand that, obviously. But that is not the issue here. Of course they can sail where they wish to sail. The question is an they——

Secretary WEINBERGER. They were not denied to sail there.

The question that I understood you put is why were they denied it. I am saying they were not denied it.

Senator KERRY. Are they being given specific coverage by the United States presence in the Gulf?

Secretary WEINBERGER. If they requested a specific coverage for a specific voyage, I would believe, although we have not faced that situation, that they would be granted that, yes. Provided, of course, that they reflag their ships in compliance with U.S. laws and regulations.

I take it the thrust of your questioning is that we should be doing more in the Gulf than we are doing now.

Senator KERRY. My point, Mr. Secretary, is exactly that. I believe that we have a right to be there. I clearly believe that we have a right to protect U.S. owned ships in transit in the Gulf. And I think if we are going to assert the principle of navigation, free navigation of the seas, it does not apply to 11 Kuwaiti tankers, it applies to all ships.

Secretary WEINBERGER. Well, it has never been limited by us other than the requirement that they be U.S.-flagged vessels.

What we are doing at the moment is responding to specific requests. I do not deal, and I do not think we can deal effectively in hypothetical situations.

But we have had a basic set of principles, which I have tried to enunciate in my opening statement, as well as in response to questions, and I hope it is clear that we are not saying that we only protect 11 ships and that our whole national policy, since we formed as a nation, is only designed to help us protect 11 ships.

Senator KERRY. I think the policy, as it has been articulated and implemented, probably questions that. But I am glad to hear your answer.

Now, Mr. Secretary, you and others have pointed to the Ayatollah Khomeini's regime as being a terrorist regime, correct?

Secretary WEINBERGER. That is absolutely correct, yes.

Senator KERRY. And Iran has been engaged in terrorist actions against us and others, is that not correct?

Secretary WEINBERGER. Without any question.

Senator KERRY. And recently they fired on United States helicopters, did they not?

Secretary WEINBERGER. That is correct, yes, sir.

Senator KERRY. And we sunk some of their boats, didn't we?

Secretary WEINBERGER. Yes.

Senator KERRY. And, in fact, there has been a series of exchanges of bullets in the region, missiles and other forms of weaponry.

Correct?

Secretary WEINBERGER. Well, there have been other instances. Yes.

Senator KERRY. My question to you is a basic one. Senator Adams raised it. I will raise it again. I suppose we can play semantic games here. But isn't the firing at a United States helicopter a hostile action?

Secretary WEINBERGER. It is, indeed, and it requires an immediate response, which the commander in the field is free to make.

Senator KERRY. And if we are firing back in a hostile action, are we not engaged in a hostility?

Secretary WEINBERGER. No, I don't think so, Senator.

I think it is very much the same situation as we had in Libya, and we took there appropriate responsive actions to attempts to interfere with us and our right to pass freely in international waters. We are doing, have done, and will do the same thing in the Gulf.

But I do not think that is hostilities within the meaning of the act, even if the act were constitutional.

Senator KERRY. Given the history of the Ayatollah's actions in the world, and particularly in the Gulf, do you take seriously the threat that they will retaliate after our last retaliation?

Secretary WEINBERGER. I think they will make one form or another of an attempt, yes.

Senator KERRY. Does that not mean that we have to anticipate the likelihood of another hostile action?

Secretary WEINBERGER. I think that we are trying to do that.

You do not conduct operations of this kind without trying to anticipate all of the likely result.

Our military, I have to say, I think is extremely good, and they are doing exactly that. That is why we were able to respond so quickly.

Senator KERRY. In keeping with that last question—and, incidentally, I think they are very good. I think the last response was a measured and sensible one, and appropriate, and I congratulate you on it.

Secretary WEINBERGER. Thank you.

Senator KERRY. But I come back to something that bothered me greatly in your answer earlier to Senator Sarbanes.

You expressed reservations about the implementation of the War Powers Act, saying if we did that, there might be a period of time during which the American people's opinion would change, that terrorist actions could take place, and that somehow our resolve might diminish.

Is that an accurate reflection of what you said?

Secretary **Weinberger**. No, that is not accurate, Senator.

What I said was that the Iranians, knowing that there is a timetable, might utilize that knowledge to try to influence American public opinion by increasing the level, the tempo, and the nastiness, if you like, of their actions, and that that could cause a great deal of additional risk to the American military and to our obtaining our lawful objectives.

Senator **Kerry**. So you do not in any way try to supplant your judgment for the judgment of the American people with respect to their willingness to be able to say to their Senators and Congressmen we should be there or not be there?

Secretary **Weinberger**. No, no.

I think the American people have spoke quite clearly thus far in the only way that we have, that any of us has, of reading it, and that is in a whole series of polls, which have come out with remarkably similar, almost identical, results.

Senator **Kerry**. Now you do not believe that you have a right to pick or choose what law you apply in the conduct of your holding of this office, do you?

Secretary **Weinberger**. No, no. We understand that the laws are things that must be obeyed, and we obey them. We also understand that some laws are outside the bounds of the Constitution and some laws interfere with the separation of powers, and some laws exceed the powers of individual branches.

Those are challenged.

We understand that we do need to adhere to laws until they are declared unconstitutional. But we have a right to challenge the constitutionality. Every president, since this law was enacted, the War Powers Act, has challenged its constitutionality.

Senator **Kerry**. Now, in keeping with that, Section 4(a) of the War Powers Act says, "In the absence of a declaration of war in any case in which the United States armed forces are introduced— and (1) you know refers to hostilities. Section (2) says "into the territory, airspace, or waters of a foreign nation while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces."

Now, Section (2) it seems to me clearly applies. We have put our forces in a Section (2) situation in those waters.

Why do you not comply with the War Powers Act under Section (2)?

Secretary **Weinberger**. Again, we do not think, Senator, that it is applicable under the circumstances.

Senator **Kerry**. Would you please tell me why specifically? The language is very clear.

Secretary **Weinberger**. Yes, the language is very clear. But the language contemplates a situation in which there is a war going on, and which the United States is entering. This is not that kind of situation.

We are there specifically to avoid and deter the United States getting into a war. We are doing things that we think are essential to prevent that happening.

Senator KERRY. Mr. Secretary, I agree you would like to not start a war, and I think you want to prevent it. But that is not what the section says.

It does not say into an area where there is a war. It says "into the territory, airspace, or waters of a foreign nation." It does not say "a foreign nation at war." It says "a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training."

Secretary WEINBERGER. But we are not in that kind of situation, Senator. We are not in the territorial waters of Iraq.

Senator KERRY. We have not been in the territorial waters of Kuwait?

Secretary WEINBERGER. We have been in the territorial waters of Kuwait, but Kuwait is not at war.

Senator KERRY. That applies, Mr. Secretary.

Secretary WEINBERGER. No. We have not been in the territorial waters. We turn over our convoys after we finish escorting them 20 nautical miles from the shores of Kuwait.

Senator KERRY. Are we not refueling in the territorial waters of certain countries?

Secretary WEINBERGER. Oh, the ships are, the reflagged ships are. But we are not, as a naval presence.

Senator KERRY. We are not resupplying in any way the fuel tankers?

Secretary WEINBERGER. Not within the territorial waters of Kuwait.

Senator KERRY. My time is up, Mr. Secretary.

I thank you.

The CHAIRMAN. Thank you very much, Senator Kerry.

Senator Pressler.

Senator PRESSLER. There seems to be a great debate going on about whether the War Powers Act applies or does not apply. This Senator at least believes it does not make much difference if it does or does not. The real issue is should we or shouldn't we be there. I have not heard the conclusions, but it seems that the people who argue that the War Powers Act should apply are implying that the administration is somehow doing something wrong meanwhile.

What would be the comprehensive result in your judgment if we were not doing this, if we were not confronting, if we were not reflagging, if we were, let's say, well, I won't say that we would withdraw, but let's say that we had taken a very passive role? What would the situation be? What would the scenario probably be there?

Secretary WEINBERGER. It would be, I think, Senator, as I have tried to indicate, that we would help create a vacuum in that area. We would demonstrate our lack of capability, resolve, and willingness to help friends that need help, and they would then realize that they had no basis whatever for turning to or relying on the United States. We would shortly have, I think, the Soviet Union coming in in a way that would not be opposed, and in a way that could ultimately require us, if we ever had any desire or any willingness to regain our stature as a leader of the Free World, to come back in at enormous costs.

So I think that what we are doing is not only the right thing to do, recognizing that it is not risk free, but we think what we are doing is vastly better and vastly less risky than the alternative of not doing it.

Senator **Pressler**. What would be the economic consequences to the United States and our allies if the Gulf did become a Russian lake? So what? What would happen?

Secretary **Weinberger**. Well, I think as they moved forward in carrying out their centuries-old plan of gaining a port there, they would feel, if they had the kind of domination that they would hope to get and would believe they could get, they would then probably deny us access to the oil fields, and the result would be economic chaos of the worst kind—a military victory achieved without military action.

Everybody is speculating, of course. But that is so consistent and consonant with their long-term goal, that I think it is a likely series of events.

The fact that we get about 12 percent or 13 percent of our oil from the Gulf is not the material question. The material question is what would happen if not only we, but our allies, on whom we have to rely for very great strength, support, and contributions to preserving freedom, what would happen then?

I think what would happen would be that you would have a Soviet Union that would be much farther along the road to world domination than it is now.

Senator **Pressler**. Some have said what if we had a "war with Iran?" Or what if Iran declared war on us? Or whatever? To what extent would we go if Iran started to——

Secretary **Weinberger**. Well, if Iran declared war on us, I would hope we would have united and universal support to enable us to win it.

Senator **Pressler**. Have you been satisfied with our allies' support? For example, Japan is frequently cited—and maybe you covered this earlier—as being under a constitution which we imposed on them where they cannot have a blue water navy. But what more could the Japanese be doing?

Secretary **Weinberger**. Well, the Japanese are doing a very great deal. And yes, I am satisfied with the kinds of contributions that we are making, though it is quite conceivable that if the situation continues, we may all have to do more.

But the Japanese contribution is a very real one. Prime Minister Nakasone, whose term finishes in a few days, is under the impression and of the general opinion that they could extend their self defense provisions to the extent of sending a couple of destroyers to the Gulf. Others were not quite so sure of that.

But the result was that Japan is making very, very large, indirect contributions. They are supplying a very important navigational system to aid the operation of the minesweepers. They are increasing their host nation support to the United States forces in Japan, and in every way they are continuing to be a very cooperative and supportive ally.

Senator **Pressler**. What about the European allies?

Secretary **Weinberger**. Well, the European allies, as I mentioned, are, in a sense, doing more than we are. They have over 40 ships now in the Gulf, to about 31, I think, of ours.

Germany, again, with provisions somewhat similar to Japan's in its constitution, is making an indirect, as opposed to a direct, contribution. This is to say for the first time they have sent three ships, naval ships, to the Mediterranean, for the first time in about 45 years, which can have the effect of relieving ships that are in the Mediterranean for service in the Gulf.

So they are taking action that they have never taken as a Federal Republic to aid in this effort. It is appropriate and it is most welcome.

Senator **Pressler**. The existence of the Ayatollah, of Muslim fundamentalism, and the situation in Iran is something that is fairly recent. What is your best assessment, from intelligence reports and so forth, if the Ayatollah were to pass from the scene, or he would no longer be the leader?

Secretary **Weinberger**. Well, we used to say "when the Ayatollah dies." Most people now say "if he dies." [Laughter]

I think that for a while they are going to have a comparatively similar kind of government. The various mullahs that seem to be in position, in office and around the Ayatollah, seem to me to be little different in mentality and outlook and fanaticism than he is. But, ultimately, we would hope, as happened once before, a government of that kind, with which no civilized nation can really live very comfortably, will be changed for one that would be friendly and supportive, the type of government that we had when the Shah was in power.

Senator **Pressler**. What is your assessment of the stamina of the Iranians to continue this war and this war-like posture?

Secretary **Weinberger**. It is very hard to assess.

It is extremely difficult to be a dissident in Iran these days. There is, I think, a total shambles in the economy. The quality of life is several degrees below zero for the individual citizen. But they are not able to do a great deal about it because public opinion plays no part in this kind of government.

But I think the morale of the nation must be affected. I do not think it is safe for us to rely on that as indicating there will be a drastic change in Iranian policy, though. I don't think there will be until a civilized government takes over.

Senator **Pressler**. From the outside it would seem that both of these countries are fighting a very long, costly, tedious war.

Secretary **Weinberger**. Indeed.

Senator **Pressler**. And there is very little to be gained by winning, or so it would seem to me.

Are we making efforts—I know that this is not really your department—through information, radio, and other forms of dissemination of information to try to influence public opinion there?

Secretary **Weinberger**. Well, I don't know how close we are to a classified area or not. But I think that there is a strong desire to do what can be done to make any inroads in whatever public opinion there may be there.

I think the real problem is, even if something like 95 percent of the people are basically unhappy with their government, they have no means of expressing that safely.

Senator **Pressler**. Do you think there is any relationship with our Persian Gulf activities and the fall in the stock market?

Secretary **Weinberger**. No.

I have already given my opinion as to the cause of the stock market fall, and that is the fact that we have much too low a defense budget. [Laughter]

Every intelligent investor must worry about that.

Senator **Pressler**. Thank you, Mr. Chairman.

Thank you, Mr Secretary.

The **Chairman**. Thank you, Senator Pressler.

Senator Sanford.

Senator **Sanford**. Thank you, Mr. Chairman.

Mr. Secretary, you have said in your statement that we are not contemplating "withdrawal" from the Gulf, and "withdrawal" is in quotation marks. I have heard that term used by the administration now a number of times. I have heard it used on the Senate floor. But I have not ever heard anybody suggesting that we ought to withdraw from the Gulf.

Is this a straw man?

Secretary **Weinberger**. No, sir. It is not a straw man, because of the provisions of the War Powers Act and the provisions of some of the substitute or other resolutions that are talked about and proposed.

The problem is that if you cast doubt over the staying power or the willingness of the United States to carry out the policies that I think are essential that we carry out, and particularly if you do it with a specified timetable, then I think you have not only endangered our own forces, but you have made it very clear to our allies, as well as our enemies, that it is not at all certain what we are going to do, and that there will come a date specified on the statutes or the actions of the Congress in which this matter could very well be decided adversely, that is, that we could be pulled out. So I don't think it is a straw man at all.

Senator **Sanford**. What does "pulled out" mean?

I think this is a term that tends to deceive, "withdrawal." We were present in the Persian Gulf before we reflagged the Kuwaiti ships.

Secretary **Weinberger**. We were.

But if the War Powers Act were constitutional, and if it were applied, then, in the absence of a favorable resolution by the Congress, just with no action at all, after the passage of a specific number of days, with the termination date known to the world, we would have to come out.

Senator **Sanford**. Congress has the authority to pull all the ships out of the gulf right now, but nobody is stupid enough to do that.

Secretary **Weinberger**. Well, I hope not.

Senator **Sanford**. The issue is not withdrawal or staying there. The question is what kind of action are we going to carry on in the Gulf. It is not a question of withdrawal. I would hope we could quit misleading the people by using that word.

Secretary **Weinberger**. I would hope that the possibility of that, taken by legislative fiat, or by lack of legislative action on a specific day, could, indeed, be withdrawn from the world. But as long as it is being talked about and as long as it is a possibility——

Senator **Sanford**. Well, I don't think it has been talked about. That is my point. We are not talking about withdrawal. We are talking about common sense with what we are doing there.

Let me go back to the reflagging.

Secretary **Weinberger**. Would you permit me, sir, to respond very briefly as to why I think there is this perception around the world?

Senator **Sanford**. There may be a perception, but it is not in the United States Senate.

Secretary **Weinberger**. Well, I am glad to hear that.

There are three things, however, in the Congress that are being talked about. One is the application of the War Powers Act as it stands, which requires an affirmative vote to stay in.

The second is a resolution which says you can stay in, but you can't do anything. This is almost equally dangerous.

Then there is a third resolution which says that, in effect, we don't know what we are going to do, but on a day certain, a resolution of some kind, unspecified, will be voted on. This may indeed be a resolution that requires us to leave.

So there is, I think correctly, through the world a perception of very considerable doubt, and I very much hope you are correct, that there is no longer the slightest suggestion that we would be pulled out.

Senator **Sanford**. Well, I do not think that there is a perception throughout the world that we might withdraw, except that I think the administration has attempted to give that impression, and I do not think it is accurate.

Let me go back to the reflagging.

Secretary **Weinberger**. All right, sir.

Senator **Sanford**. At the time that action was taken, we were in the Gulf. At that time, we could have sent any number of additional ships that we wanted to in the Gulf. At that time, we had United States ships, United States owned ships, or ships owned by United States citizens, in the Gulf, and we had U.S. ships with U.S. flags in the Gulf.

All of those things were present a year ago, were they not?

Secretary **Weinberger**. I think there were very few U.S. owned—U.S. flag ships. Most of the U.S. owned ships were flagged under different countries.

Senator **Sanford**. Surely. But they were there, and we were there, and the only thing that has changed this is that the tension has been greatly increased because of the reflagging of the Kuwaiti ships.

Secretary **Weinberger**. No, sir. The tension has increased because of the continued Iranian attacks on shipping. That is what has caused the tension to increase.

Senator **Sanford**. Well, at the time we reflagged the ships, there was a certain level of attack, which was not very high. We had lost, I think, 1 percent in three years of oil, at that point.

Secretary WEINBERGER. Well, there were 137 Iranian attacks on ships, and there have been some 27 of those 137 since the first convoy started. So there was a great deal of activity, which some people at least called "attacks" before then.

Senator SANFORD. At the time the administration undertook the reflagging policy, did we look at alternatives, or were we trying to be confrontational?

Secretary WEINBERGER. No, sir.

We looked at plenty of alternatives, and the alternative that seemed to us the worst was to be not doing it at all.

That was the riskiest.

Senator SANFORD. Did we look at the alternative of declaring that we were going to more actively protect U.S. owned ships?

Secretary WEINBERGER. We think that if U.S. owned ships want protection, they can get it. If U.S. owned ships are flagged in another country, then we think they should reflag back to the United States to obtain the protection that all U.S. shipping has had from our naval forces since 1789.

Senator SANFORD. But if we were looking for a situation to establish a firmer presence in the Gulf, would it not have made just as much sense to have announced we were protecting U.S. property, as to go out and go through an exercise of picking up 11 ships, a very small minority, which did, indeed, whether it was intended or not, create a confrontational situation?

Secretary WEINBERGER. Sir, I believe the confrontational situation started back in 1979, when the Iranians seized our hostages and our embassy.

Senator SANFORD. I think that is true. And I think now we are getting at the point that the administration was awfully slow in coming forward with, and that is your third point—and this was not given as an argument when we were flagging the Kuwaiti ships—to promote the security and stability of the moderate Arab regimes in the face of Iranian intimidation——

Secretary WEINBERGER. That is one of our objectives.

Senator SANFORD [continuing]. And to prevent the spread of Iranian radicalism.

Now, that may be a perfectly legitimate national purpose.

Secretary WEINBERGER. It is.

Senator SANFORD. But it has not yet been stated as clearly as you have now stated it.

Secretary WEINBERGER. It is one of our objectives.

Senator SANFORD. Is it not our primary objective?

Secretary WEINBERGER. It is one of our objectives, sir. Another one—and it is hard to assign specific priorities to these things—but certain another objective is the one that we have mentioned several times today, and that is to make sure that innocent, nonbelligerent commerce can pass freely over open waters. Another is not to encourage the spread and the increase of Soviet authority into the Gulf.

These are all objectives that we have stated from the beginning.

Senator SANFORD. Senator Pressler asked you a very good question, and it can be put in another way.

How do you intend to prevent the spread of Iranian radicalism?

Secretary **Weinberger**. Well, what we are trying to do, as I said, first of all, is we have succeeded in getting a resolution of a ceasefire by a unanimous United Nations. We are now trying to get a resolution that will dry up the means of Iranian ability to carry out war, and if we could get that resolution passed and carried out by a few of the largest nations in the world, we can effectively accomplish that from an economic standpoint immediately, in a very few months.

It is not an easy task. But that is fully consistent with our policy. So we are pursuing it both in the United Nations as well as in the Gulf.

Senator **Sanford**. I think that is what bothers people, that we do not want to inadvertently move step by step till we find ourselves in an extremely serious war as a combatant. I think that is the real problem that bothers people. It has nothing to do with withdrawing ships from the Gulf. It has something to do with what we do to get this one sentence: "prevent the spread of Iranian radicalism."

Secretary **Weinberger**. That is an objective, and I submit a very worthy and desirable objective, as we have had repeatedly demonstrated to us since 1979. But that is not the sole reason we are there by any means. It is, I think, essential that we take the steps that we are taking, and I urge you, sir, to consider the risks of not doing what we are doing. They are very much greater.

Senator **Sanford**. What I am worried about is that the United States reflagged ships that need not have been reflagged, and in so doing, created a confrontational situation.

What people are worried about is whether we are going to all of a sudden find ourselves in a situation similar to that in which we found ourselves in Vietnam, where we are in a war? That is the question that needs to be considered.

That is why there is a concern in the Senate today: what is going to happen in the future that drags us deeper and deeper into something that we really do not need to be in.

Secretary **Weinberger**. I think the real question is do we need to be in the Gulf, and I think the answer is yes, clearly.

Senator **Sanford**. Clearly, agreed. Agreed.

Secretary **Weinberger**. If we are not there doing the things that we are trying to do, then we would be dragged into something far more serious, which could only be solved at infinitely greater cost a few years hence.

Senator **Sanford**. I don't know of anybody saying "get out." I don't want to get into a question that might be classified, but I just saw a report that said "Iraqi defeat must now be regarded as a serious possibility." The question is if it is a possibility, if it does happen——

Secretary **Weinberger**. Excuse me. What is a possibility, sir?

Senator **Sanford**. The defeat of Iraq.

Secretary **Weinberger**. Well, we do not anticipate that that will happen. But, again, that is obviously one of the possible results when you have a war.

Again, what we are doing, I think, is what is essential. I am delighted to hear you say that no one is talking about forcing a withdrawal.

But it is essential that we remove the doubt that these various resolutions, which would have that effect, are causing around the world.

Senator **Sanford**. Thank you.

Thank you, Mr. Chairman.

The **Chairman**. Thank you very much.

Senator Evans.

Senator **Evans**. Thank you, Mr. Chairman.

I am glad to hear the last exchange. It gives me some comfort.

I think there is some selective memory going on around here, though. I don't think there is any question that at the time of the Stark attack there were calls by Members of this Congress that we get out. I don't think there is any question that at the time of the reflagging, there were calls by Members of the Congress to not do it and to step aside.

There is plenty of selective memory around here about what has happened in the past. I think we could go back through the record and find some of those things.

I do not think there is any question the Secretary is right in that what is important is not only what we do, but the perception of what we do around the world.

Mr. Secretary, let me get back to this question which seems to be so prevalent in people's minds about whether the War Powers Act does or does not apply, surrounding the word "hostilities."

Even though the couple of incidents I am going to refer to took place before the War Powers Act, at least the incidents themselves can be placed in a framework of if the War Powers Act was in existence.

When the Israelis attacked the Liberty and killed a number of Americans, was that a hostile act?

Secretary **Weinberger**. It was a hostile act, but I don't know whether it was intended. I think you are going back beyond my institutional memory, Senator.

Senator **Evans**. Clearly I think we would agree that it was a hostile act.

Secretary **Weinberger**. But there was not hostility.

Senator **Evans**. I understand that. That is what I am trying to get at. It was a hostile act.

How many votes do you think there would have been in Congress at that time if we had had a War Powers Act in effect to call for the War Powers Act on the basis of imminent hostility?

Secretary **Weinberger**. Oh, maybe two or three.

Senator **Evans**. If that many.

Some years ago, in the Demilitarized Zone in Korea, there was an attack by the North Koreans on an American patrol and a rather brutal killing of at least one, maybe several, Americans.

Was that a hostile act?

Secretary **Weinberger**. Certainly it was a hostile act.

Senator **Evans**. Did that necessarily portend immediate or imminent hostilities?

Secretary **Weinberger**. No, sir. It does not.

I think you are putting your finger on exactly the differences that I believe exist, and that I have tried to express, but not nearly so clearly you are expressing.

Senator **Evans**. It does seem to me that the framework of the War Powers Act, when it was passed, was designed to preserve for Congress its legitimate role constitutionally to declare war.

Secretary **Weinberger**. Yes.

Senator **Evans**. It seems very clear to me—I was not here; I have read some of the debate that went on at that time—but it seems to me very clearly that the intent at that time, and I think the most appropriate intent, was to make sure that we did not in the future get into full-fledged war without Congress' ability to declare war.

Secretary **Weinberger**. I think that is correct, and I think that is entirely proper.

Senator **Evans**. I believe you have testified earlier today that, while there clearly have been hostile acts in the Gulf, there is no inclination whatsoever, certainly at this point, for the United States to engage in continuing hostilities with Iran or with anyone else?

Secretary **Weinberger**. No, sir.

Let me give you, if I might, Senator, just one very short example that occurs to me.

We pass by within hailing distance Iranian ships every day in the Gulf. Iranian ships stood off with the people that had come off the platform in response to our warning. They did not attack; we did not attack.

There is not a continuing, general condition of continuing hostilities, which prevailed in World War II, for example, where, whenever you see someone on the other side, why that is a continuing, hostile situation and you know it and he knows it. At least you know it for a while.

But the situation here is not that. We do not seek a war. We do not seek to escalate these activities or instances.

Quite the contrary. We are trying our best to show that there is a heavy cost to Iran to continue to do this and that they should not do it.

You have pointed out, I think very clearly by your examples, the kind of situation that would be covered by the act, which we do not think exists now.

Senator **Evans**. I know the views of all presidents since the passage of the act on its constitutionality, but when an act has not yet been litigated and where the courts have not yet decided, we have to proceed on the presumption of constitutionality of existing laws.

Secretary **Weinberger**. Indeed. Yes.

Senator **Evans**. Would the administration, if it got to the point where it felt that imminent hostilities in the way we have just described them were the case, would it be the administration's policy to come to Congress under the War Powers Act and make a report, if you anticipated that you were on the verge of general hostilities with Iran?

Secretary **Weinberger**. We do make the reports all the time. I think we would certainly do the things that are required under the act.

I have to tell you, Senator, that I think we would also then have a situation in which the courts would feel there was an actual justiciable controversy, and we would attempt to get as rapid a ruling as possible, we would hope one upholding the view that it is not constitutional for the provisions of the act to take effect.

But we have more than complied now with the reporting requirements of the act, although we have been very careful, as each president before President Reagan has been, to notify the Congress that we are doing that without reference to or in any way that would prejudice the case against the War Powers Act constitutionality.

Senator **EVANS**. In your view, would it be possible today for the War Powers Act to be litigated, even if Congress or Members of Congress are declared not to have standing? Certainly a sailor, maybe even the family of someone who is engaged in the Gulf, someone certainly has standing and could be a person to bring a suit into the courts. Isn't that true?

Secretary **WEINBERGER**. It is, I think, quite possible to imagine a case where the court would take jurisdiction and decide, though, as you know, they are reluctant to decide matters that are not justiciable controversies.

Senator **EVANS**. I understand that.

Secretary **WEINBERGER**. I think it is possible to think of such a case, and the case you postulated a moment ago I think could be a very real, justiciable controversy, and we would certainly try to make our points to the court. But, meanwhile, we have more than complied with any reporting requirements; but we have taken the position that not only is the act unconstitutional, but we don't think it is applicable, even if it were.

Senator **EVANS**. Let me turn to the diplomatic front and what is going on at the United Nations.

I thought I heard you say in response to a question that an arms embargo, if implemented, would, I think the words were "bring Iran to her senses." Is that really what we are after, or in fact is what we are really after to end the war?

Secretary **WEINBERGER**. No. That would be the effect of it. It would destroy, I think, if it were passed and were honestly and effectively carried out by the major nations of the world, Iran's warfighting, war-making capability. That would be destroyed.

I think the same situation with respect to much of her own economy.

That is not necessarily the objective. But the objective is to end that war, and since Iraq clearly wants to end the war and has signed and has complied with the ceasefire resolution, why it would seem to me that that is the quickest way of ending the war.

I would very much hope that such a resolution could be passed, but, more important, would be vigorously carried out by the member nations.

Senator **EVANS**. I just wanted to make clear. I was sure of it, but it seems to me that our policy of ending the conflict over there could be stated as simply having each nation return to its pre-war borders——

Secretary **WEINBERGER**. That's right.

Senator **EVANS** [continuing]. And engage in activities that are common to nations at peace, and no more than that.

Secretary **WEINBERGER**. That's right, to behave like civilized nations. That is it.

Senator EVANS. What is your outlook at this point? Perhaps this is a question to better ask the State Department than the Defense Department. But what is your view on progress through the United Nations toward that next resolution or the possibility of an arms embargo to carry out the ceasefire?

Secretary WEINBERGER. My understanding is that the Secretary General is to receive reports of the nations he has communicated the resolution to, and others, by the end of this month, and is then to make a report to the Security Council. I would hope that within hours after that the resolution would be passed.

I think it is difficult to predict the votes of individual nations, or anything like that, but all I can say is that we are pushing as vigorously as we can to get the same kind of result we got on Resolution 598.

Senator EVANS. I have one final question, kind of an aside.

We have had a Silkworm attack now, which has created considerable damage to one of Kuwait's oil terminals. I don't know whether it has actually put that terminal out of action or not.

Secretary WEINBERGER. No, it did not.

Senator EVANS. Assuming there were future attacks, missile attacks, of that type, which had the effect of putting out of action all of Kuwait's oil terminals, that, presumably, is one way of ending the escort of flag vessels to Kuwait. There would not be any oil to bring out.

Secretary WEINBERGER. It's not a very good way, but it is a way, I guess.

Senator EVANS. It's not a very good way.

Do you think that is something that Iran may try?

Secretary WEINBERGER. Well, so far they have not tried anything on that scale. There are a substantial number of defenses against the Silkworm missile, which could be put into its course, its path, and my understanding is that the Kuwaitis are taking some of those measures. We are urging that additional measures be taken.

I hope the chances of that are comparatively remote.

Senator EVANS. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Evans.

Senator McConnell.

Senator MCCONNELL. Thank you, Mr. Chairman.

Mr. Chairman, I want to some extent to echo what Senator Lugar said about the policy of the Persian Gulf. It seems to me, at least to this point, that it has been a conspicuous success, on which I want to congratulate you.

We are all getting exceedingly weary of waltzing around the War Powers Act, and I want to return to that one more time.

Obviously, there is a considerable reluctance on the part of the administration to litigate the matter, although it continues to express its total confidence that the act is unconstitutional. I would add that this position is consistent with that of every administration since the War Powers enactment.

I am wondering, Mr. Secretary, if it might not be a good idea to construct some scenario under which we can resolve this issue once and for all.

I, for one, would like to see it off the books, and if the administration is completely confident that it is unconstitutional, why not stipulate that it is a justiciable controversy, if that is possible, and get some court resolution of this?

Secretary WEINBERGER. I don't think that is possible, Senator. It would be, I think, a better result than we have now to have a formal court ruling, at the highest level. But I do think it is difficult under our court system to get that under the present state of circumstances.

But as I mentioned to an earlier question, we have filed our response to the suit that has been filed by the Members of the House of Representatives. We are perfectly willing to cooperate in any such activity.

I think the problem is, from the legal point of view it is not possible to get that kind of determination now. I would not say that we are reluctant to do it. Our attorneys tell us, practically speaking, that there is no way under the existing procedures that that can be done.

Senator MCCONNELL. Your lawyers, then, tell you that it is simply not possible to stipulate that it is a controversy, that it must be a real controversy before it can get into the court?

Secretary WEINBERGER. Yes. One of the few things I remember from the years when I used to practice law is that you cannot stipulate jurisdiction. It was either there or not there.

Senator MCCONNELL. Well, it is a particularly exasperating situation at the moment, it seems to me. We have had a number of votes this week, one way or another, on this issue.

Secretary WEINBERGER. It was my response to Senator Sanford, and Senator Evans correctly stated my view of things, that there is a tremendous number of different ways in which either withdrawals or various forms of doubt as to whether we stay are being raised by these proposals. There seems to be no real shortage of them.

Senator MCCONNELL. Well, there are substantial numbers of Members of the Senate who, in my judgment, think that we should maintain a military only to send out strong signals, that there are never any occasions upon which we would use it.

Secretary WEINBERGER. Yes.

Senator MCCONNELL. And so, my assumption is that if we are going to be having this experience from now on, I think it might be a good idea, if possible, to figure out some way to finally resolve this controversy.

Secretary WEINBERGER. It would be desirable if it were resolved properly.

Senator MCCONNELL. Mr. Secretary, you had said earlier in response to questions that I believe were from Senator Kerry that you had not been officially asked, did you say, by U.S. companies for protection of their shipping?

Secretary WEINBERGER. I am not aware of other formal requests. He referred to that request to tag along on a convoy, and that is the only one that I—I do not really interpret that as a request for the kind of protection that we received in connection with a reflagged tanker.

Senator MCCONNELL. Staff just handed me an article from "The New York Times" of Friday, October 16, where the headline says "U.S. Companies Want Their Tankers Protected."

I have not read every word in here, but the implication is that there has been some request made.

Secretary **Weinberger**. I do not have the article before me, but I suspect it is that same incident that we were talking about a moment ago.

Senator **McConnell**. But it apparently brought about a request, I gather, to the administration.

Secretary **Weinberger**. A request to tag along on a convoy.

Again, Senator, the convoys are carefully planned and designed to protect the ships that are within their protective embrace, so to speak. You cannot add to that on a kind of ad hoc, unplanned basis. However, there was no slight suggestion; indeed, as I recall it, there was a statement to the effect that no one can deny an American ship or any ship the right to sail where it wishes on international waters. That, indeed, is one of the purposes we hope to serve by being there.

Senator **McConnell**. So, it is your view, then, that unless it has an American flag on an American ship, it is, in a sense, not eligible for such protection?

Secretary **Weinberger**. If an American owned ship has reflagged itself to another country, then I think the obligation, the responsibility, is not the same as if that ship does carry the American flag. If it carries the American flag, it is clearly within the ambit of our protection.

If it wishes to come within that ambit, then I think it should reflag itself.

Senator **McConnell**. So, the determinant is what flag it flies, not ownership.

Secretary **Weinberger**. Yes, sir. That basically has been the rule for quite some time. There are various advantages to going under the Panamanian or whatever flag. But there are certain disadvantages to doing that, too.

Senator **McConnell**. Let's take it a step further and assume that American owned ships decided it was not safe to be there and left. Don't you have, in effect, then, an embargo situation, where the oil flow begins to slow?

Secretary **Weinberger**. The American owner of a ship is perfectly entitled to make any determination he wants to make. If he makes a determination not to come to the Gulf for whatever reason, why he certainly is free to do that.

But I think it is known that the kind of protection we are extending to American flag ships is not limited to 11, and that certainly should have been known because, over the years, that has been the case.

Senator **McConnell**. So, just trying to play this out further, if an American owned ship with a foreign flag, if a number of those decided no longer to go into the Gulf, it would not concern us?

Secretary **Weinberger**. An American owned ship with a foreign flag?

Senator **McConnell**. Yes.

Secretary **Weinberger**. Yes.

Senator **McConnell**. What I am concerned about here, Mr. Secretary, is that if the practical result of this is that the oil flow begins to slow because of the flags on the ships, regardless of ownership, have we not failed to keep the Gulf open, in effect?

Secretary WEINBERGER. Well, we want to have conditions under which people would not want to make those decisions. We feel that our presence, our activities, what we have been able to do since we have started these convoys—and we have run 12 of them through, now—would encourage owners not to make such decisions. We hope that that will be the result, that what we are doing is a way of showing them that such a decision is not necessary and is really not in their interest.

Senator MCCONNELL. Mr. Secretary, turning to another issue, there is not much dispute, as I understand it, that Iraq started this war. It seems to be agreed upon by almost everyone.

As I understand the Iranian position with regard to the ceasefire, it is essentially that Iraq be established as the initial aggressor of that action.

My question: Is that not a reasonable stipulation to be made when you talking about a ceasefire?

Secretary WEINBERGER. No, I don't think so. I think if, as you say, it is well known, then I don't think it needs any further iteration.

But Iran's terms for ending the war are clearly impossible for any nation to accept. They want Iraq to depose their leader and presumably to execute him, or turn him over to Iran for execution. They want payments of reparations in the billions and billions of dollars, clearly impossible for any nation to make. And they refuse to take any other action, except to continue their basically irresponsible and dangerous attacks in the meantime.

Senator MCCONNELL. What if Iran's only demand was to stipulate the obvious, which was that Iraq started the war?

Secretary WEINBERGER. Well, I cannot really deal in hypotheticals, Senator, because that is not the case. That is not their only demand.

Senator MCCONNELL. There has been a lot of talk lately about burden sharing, particularly when it comes to the defense of our allies. It is obvious that you are satisfied with the growing cooperation that we have received from our European allies, the Japanese, and the moderate Arab states during the course of this operation.

Secretary WEINBERGER. We are very pleased with that. Yes, sir.

Senator MCCONNELL. Do you think that is the beginning of things to come? Are we now going to be able to ask of our allies a greater assumption of the risk of protecting freedom throughout the world? Is this the kind of good precedent that we can point to down the road?

Secretary WEINBERGER. I think that our allies are doing a great deal. I think that this is a good precedent because I hope we will demonstrate that we can work together in an informal way, without setting up a formal international force and all the rest of it.

I hope it will be, I think it can be, a very good precedent.

I do think that we need to recognize that our allies are doing a very great deal to carry a share of the burden, and I think we are getting ourselves, frankly, Senator, into the position where we are building a rather large glass house, in which we are not going to be able to throw quite so many stones, because we are not doing very much of the burden ourselves if we cut our defense investment 7 percent one year and threaten to cut it another 10 percent this year.

That does not leave us in a very good position to tell other people that they ought to do more.

Senator McCONNELL. Well, I have supported you on that without exception.

Secretary WEINBERGER. I know you have.

Senator McCONNELL. Nevertheless, it seems to me that we ought to seize upon this opportunity, where enhanced burden-sharing has been demonstrated as a way to expand the cooperation of our allies in the defense of the Free World.

I think it would be very foolish not to, don't you?

Secretary WEINBERGER. Oh, I do.

I don't have any doubt at all because I think we all have to do more. I think we do do that, and I think the fruits of our policy lie in the fact that a lot of nations are joining in in situations that, just a few weeks ago, would have been considered unthinkable for them.

I don't think anyone would have offered any odds, so to speak, on Dutch-Belgian participation in an international venture so far from their home a few weeks ago. But it is there. It is welcome. It is valuable.

Yes, I hope it continues and I hope that it will be followed by similar actions should similar situations arise. Absolutely.

Senator McCONNELL. I just want to say that I think the administration ought to encourage that continued, increased participation, and not be fearful that it would be used by the Congress as an excuse to reduce defense spending. I think it is just a darn good precedent, and it ought to be established and elaborated on in coming years.

Secretary WEINBERGER. The only question is how you encourage it. Some people think it can be encouraged by calling press conferences and denouncing the nations and expecting them to contribute more. Some people think it can be helped by threatening to pull our forces out of Europe.

We have tried to do it by quiet, and we hope rational and persuasive arguments. I am just delighted to see that it is working.

But there is no question that we need it. We all need to do more and we continue to do it, every time we get an opportunity.

Senator McCONNELL. Thank you, Mr. Secretary.

Secretary WEINBERGER. Thank you, sir.

Senator McCONNELL. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator McConnell.

I would say that I have a few questions which remain, but I will defer to Senator Kerry. Go ahead and take five or ten minutes.

Senator KERRY. Thank you, Mr. Chairman, very much.

Mr. Secretary, there are a couple of policy issues about which I did not ask you. I did not have time last time and I would like to come back to them, if I can.

Secretary WEINBERGER. All right.

Senator KERRY. In today's "New York Times," there is a front page story continued on page 9. I would like to read from it, if I can. It says, referring to the Sea Isle attack, " 'This is a kind of turning point in the conflict because Kuwait is suddenly much more involved than it was a day ago,' said a Western diplomat here. 'It is a most disturbing development. The attack,' he said, 'will strike fear into the Kuwaitis because it shows the Iranians are now able to strike at will at the oil sites that are the basis of the country's vast wealth.' Kuwait, fearing the export of Ayatollah Khomeini's fundamentalist Islamic revolution has backed Iraq in the Gulf War, contributing billions of dollars and allowing Iraqi military supplies through its ports. Kuwait drew the United States, and to a much less extent the Soviet Union, into the plan to protect its oil fleet, largely in the hope that the Super Powers would then find a way to end the war. 'Now Kuwait, itself, has become the target,' the Western diplomat said. 'It is exactly the reverse of the outcome the Kuwaitis wanted.' Americans, too, are presented with a dilemma. If they do anything, it will mean a widening of their role and a widening of the Gulf War. If they do nothing, Kuwait is open to attack, and it is quite clear that this will not be the last attack. This is the choice they have."

Now, in your prepared text for today, you stated a series of objectives. Your second objective was "to preserve Free World access to the oil resources of the region."

My question to you is does that objective contemplate the use of U.S. military force to preempt attacks by Iran on Kuwaiti oil production facilities?

Secretary **WEINBERGER**. Senator, first of all, I regret to have to tell you that we don't pay a tremendous amount of attention to various stories that are attributed to anonymous sources, even to "Western diplomats."

Senator **KERRY**. Well, leave the story aside. Just the thinking there.

Secretary **WEINBERGER**. This is a preface for all of your questions.

But, as far as the specific parts of your question are concerned, I think the proper answer is that our objectives are as stated in my introductory statement. We believe and hope that we can secure those objectives by doing what we are doing now, and we are almost certain that we will lose those objectives if we don't do what we are doing now.

I have no basis whatever for assuming that what we are doing won't work, and certainly no basis for getting into hypothetical predictions as to what we might or might not do.

I don't use anonymous sources, and I am not an anonymous source. I simply cannot speculate about that kind of thing.

But what we are doing is obviously what has been reported to the Congress and has been briefed over 100 times. Why we are doing it is set forth in these four basic objectives.

We believe that if we can continue doing what we are doing, as we are doing it now, we will not have to get into hypotheticals.

Senator **KERRY**. Mr. Secretary, frankly I don't think it is a hypothetical. I don't care about the anonymity, and I am not asking about the anonymity. I am asking about a thought process here. I am asking you about a rational analysis of the situation.

You said in your objectives that one of the objectives is to maintain the free access to oil.

If Iran, which is a matter of fact, not an anonymous source, has attacked a Kuwaiti source of oil and we are protecting ships that bring the oil out, my real, real-time, immediate question to you, without any anonymity is as a matter of policy, would we prevent those attacks or take action if they continue in order to protect the flow of oil?

Secretary **Weinberger**. Senator, I just am not able to deal with questions that involve "woulds," or "ifs" or "what ifs."

Senator **Kerry**. Well, is it a matter of policy? What is our policy?

Secretary **Weinberger**. Our policy is as I have stated it, and we believe that our policy will prevent the requirement that we do things do not now have to be done. That is the basic objective. The "what ifs" we have to take care of if they occur.

But little purpose is served by trying to speculate in forums of this kind or indeed of any kind as to what might happen if something different occurs.

Senator **Kerry**. But this is not something different. This has happened.

Secretary **Weinberger**. This has happened.

Senator **Kerry**. If there is another attack——

Secretary **Weinberger**. This is another attack.

Senator **Kerry** [continued]. If there is another attack.

Secretary **Weinberger**. We have responded to an attack in that area before, which hit an American ship and seriously wounded an American master, and we take the actions that seem to us required on the basis of the activities of others, the Iranians.

I cannot speculate on what we might do if they take certain hypothetical actions in the future.

Senator **Kerry**. I have to sort of answer you, Mr. Secretary, that I guess that is why a lot of us worry about the War Powers Act and are concerned about what we are doing there. This is because essentially what you have said to me is nothing—we may, we may not, we don't know, there is no real policy.

Secretary **Weinberger**. But surely, Senator, you do not expect me to sit here and tell you precisely what we are going to do 24 hours from now, 58 hours from now, or 100 hours from now if A, B, C, D, or E happens. You must have some recognition of what that would do to the safety of the troops, if nothing else.

Senator **Kerry**. Mr. Secretary, in terms of their safety, we are talking about the possibility of widening the war. I mean, if you did respond as a matter of policy in order to accomplish your stated objective—I did not state the objective, you have: this is the policy of the United States.

Secretary **Weinberger**. I stated the objective, and the objective is to do that to prevent war. We are going to pursue, as long as we are allowed to, a course that we believe can be most likely to prevent war. We hope very much that we will be able to do it and that it will succeed.

Senator **Kerry**. As a matter of record, I think it is a very general answer which does not, from a policy perspective, assist this Committee, nor even the Congress, to know with some greater specificity what the probability or possibilities of a widening of the war are.

Secretary **Weinberger**. It is specifically designed not to assist the enemy.

Senator **Kerry**. Well, it might assist the enemy to know that we might respond that way. Then they might not do it again.

"Enemy" is an interesting word for a country that is not willing to use the War Powers Act.

Secretary **Weinberger**. Well, I don't know any other way to describe a country like Iran, that has done the things that it has done since 1979.

Senator **Kerry**. Well, if indeed they are such an enemy and so unpredictable in engaging in hostile acts, would you not be better off, Mr. Secretary, having a resolution passed by the United States Congress supporting our presence there? Would that not send a stronger message?

Secretary **Weinberger**. Senator, I have to go back to something one of your colleagues told me, and that was this statement. He said, "What are you afraid of? Who knows, you might get a favorable vote."

That is not very much of a basis on which to conduct foreign policy of this kind.

Senator **Kerry**. Mr. Secretary, I agree with you. I think a "who knows" is an imponderable, to say the least. But I know that this administration counts votes generally very effectively.

Secretary **Weinberger**. Not always.

Senator **Kerry**. I am confident, very confident, that it is clear where this Congress stands on the issue of our presence.

With respect to that, there was some revisiting of history by the Senator from Washington who said that there was a rush to get us out of the Gulf. The resolution which we passed from this Committee at the time of the Stark, submitted by the Chairman, and I will quote from it, specifically says that "the Congress reaffirms the United States' neutrality, supports the use of United States naval forces to protect the right of American vessels under international law to free and innocent passage through the international waters of the Gulf."

No one on this Committee has ever suggested that we withdraw, nor is that current policy.

Secretary **Weinberger**. That was several resolutions ago, and that was by this Committee, as you point out. But there have been many other suggestions by many other Committees and individuals.

Senator **Kerry**. Mr. Secretary, no one in the United States Senate has suggested the United States withdraw from the Gulf. No one.

Secretary **Weinberger**. Well, I am glad to hear that, Senator.

Senator **Kerry**. It has not been suggested.

Secretary **Weinberger**. But I have to agree with Senator Evans that there were a number of things that led a lot of people to believe that that was a result that is coming.

Senator **Kerry**. Let me ask you this again. I don't want to just harp on this, but I ask this because we are going to be revisiting the whole War Powers Act and trying to analyze whether or not there is a better approach. What is it about a Kuwaiti ship that is so precious, as distinct to an American asset, an American owned ship?

What is the distinction?

Secretary **Weinberger**. I didn't get the beginning of your question.

Senator **Kerry**. What is there about a Kuwaiti ship that deserves protection over an American owned ship, which is an asset of the United States?

Secretary **Weinberger**. It does not have that priority. It has, however, followed our laws, which permit the placing of the American flag on other, foreign owned ships, and when that flag is on those ships, those ships are entitled to and receive the protection of the United States. But American-owned ships operating under a foreign flag are in a different category than ships that are under the American flag.

Now there is nothing sacred about a Kuwaiti ship or anything of the kind. What is the important thing is the basic right that I mentioned many times this morning, and that is to have the protection of freedom of the seas, granted as stated as one of our basic policies, ever since we have been a nation, carried out.

That principle is that American flag shipping is entitled to carry out legitimate, nonbelligerent commerce in international waters, and to be protected while doing so.

Senator **Kerry**. I understand that.

I guess the reason—and I know the yellow light is on—the reason, Mr. Secretary, and I keep pushing on this, is that I genuinely believe that we could be in a much stronger position than we are without having disrupted our balance with respect to Iraq and Iran, particularly in a way that draws us more into the conflict than we need to be.

It is my impression that we could be asserting our rights completely, without having interrupted that neutrality, if you will.

Now, 46 U.S. Code, Section 1242(a) states that in time of national emergency, the U.S. Government can requisition ships that are American assets, but not flying the American flag. They are part of our national security apparatus.

It seems to me that we have much greater international validity if we are asserting the right of traffic and navigation and the interests of protecting American assets that are part of the national security apparatus, without involving us directly in the middle of the war and tilting the balance.

That really is where I am coming from, Mr. Secretary.

Secretary **Weinberger**. I understand that, Senator. There has been no national emergency and no requisition.

Senator **Kerry**. I totally agree that there has been none. But it seems to me a prudent nation should protect its assets for the potential eventuality of a national emergency.

All I am suggesting, Mr. Secretary, is I'm going to vote to keep us in the Gulf. I think we ought to be there. I applaud the fact that we have the strength to assert our rights against a terrorist nation. We ought to be doing that.

What I think many of us are concerned about is the way in which the violation of neutrality puts us into a predicament, where we face a continuing series of potential, imminent hostilities, which does challenge whatever the future potential for war may be in the region.

I guess we just differ on that.

Secretary **Weinberger**. Oh, I understand your viewpoint certainly, sir. But I don't think that we are interfering with our neutrality in any way.

I think that the relevant question is not whether we interfere with our neutrality. I think the relative question is whether we do what we need to do to protect our national interests.

I believe we are, and I am delighted to hear you say that you have no intention of changing it.

Senator **Kerry**. Thank you, Mr. Secretary, and thank you, Mr. Chairman.

The **Chairman**. Thank you, Senator.

I have a few questions that I would like to run through, if I may.

First of all, as you know, our staff went out to that area and made a report to us which indicated that the chance of an Iraqi defeat is really quite real.

My question to you is, first, do you concur in that assessment? Second, if it is defeated, if it disintegrates, what would be the strategic consequences for the United States?

Secretary **Weinberger**. I don't think intelligence reports that I am familiar with support such a conclusion, Senator. We think the Iraqis have very strong defensive positions on the ground. We know they have unquestioned superiority, total superiority in the air. They have a substantial capability of dealing with Iranian surface attack. They have great tank strength back on the ground again. And we don't see any suggestion that that is about to happen.

There is no doubt that when two nations are engaged in a war, there is always the possibility that one might lose. But that is a continuing possibility, and it is the same possibility whenever two people, two nations, are engaged in a contest. That could happen.

But Iraq's whole policy at the moment I think is properly summed up by saying they are not trying to win the war. They are trying to bring it to an end through the negotiation process, but meanwhile to hold in place, and I think they are doing that.

The **Chairman**. What would be the effect—and I do not mean to be overly hypothetical in this—if there were an Iraqi disintegration?

Secretary **Weinberger**. Oh, I think it would be catastrophic.

The **Chairman**. Has the military commander in the Gulf, I believe Admiral Bernsen, asked for an expansion of our protection to include all neutral shipping?

Secretary **Weinberger**. I'm afraid I did not hear that.

The **Chairman**. Has our commander out there asked for an expansion of his authority in order to safeguard the passage of neutral shipping?

Secretary **Weinberger**. I tried to deal with this earlier.

I think that this report, or whatever, arose from the continuing discussion we have back and forth as different situations arise, for either interpretation or discussion of the actual Rules of Engagement. Generally, they are very clear.

But every once in a while a situation arises in which he requests interpretations for the future. But I am not aware of any specific demand, request, or anything in the way of an expansion of the authority.

I think we have a continual exchange on interpretations and whether certain rules, or what rules would change in certain situations. Sometimes they are hypothetical, so that he can issue you further instruction. Sometimes it is the result of a natural situation.

The **Chairman**. From the viewpoint of command and control, each nation now is independent of the escorting nations.

Secretary **Weinberger**. Yes.

The **Chairman**. Has any thought been given to having a combined command?

I would like, as you know, to see us move down to the United States, a military staff committee approach.

If that does not work, has any thought been given to a combined command because, as of now, as I understand it, we are moving in that direction with a sector kind of command structure.

Secretary **Weinberger**. No, sir.

I think the combined command idea was pretty well ruled out by each nation as it made its contribution to the Gulf.

As you know, the French and the British have been there for some time in smaller numbers. The Italian Government decision I believe was quite specific, and so was the Belgian and the Dutch. The Belgian and the Dutch have a joint command of those two countries. But what you have, however, is something that I think is fully as effective, and that is a regular, informal liaison and coordination between the navies, on the spot, so that we do not engage in duplicative activities, so that we are familiar with each other's Rules of Engagement.

We have shared some knowledge with them and experiences with them and things of that time, and they with us.

So I think you have the benefits of this kind of thing. But the nations that are there, for the most part, I believe have made it very clear that they do not wish to have an international command or a combined command or a single commander or anything of the sort.

The **Chairman**. Is there any specific spot where they can have liaison officers and exchange information?

Secretary **Weinberger**. Oh, yes.

We have that. Practically speaking, we have that.

The **Chairman**. But not one spot where all the different nations can come together?

Secretary **Weinberger**. I think the way in which the changes took place varied. But I think it is effective.

I think all of the naval personnel and other military personnel on the ground, basically, for one thing, they have a good, working, personal relationship with each other, having worked together in various capacities; and, second, I think they are aware of their government's reluctance to have international commands. Third, they are also aware of the benefits that can come from full exchange of information. That understanding is that that takes place regularly in a very helpful and effective way.

The **Chairman**. Would this apply to all the escorting nations, including the Soviet Union?

Secretary **Weinberger**. Well, I don't know that the Soviet Union has participated very much in any of the exchanges. But there have been no situations of which I am aware in which there was any conflict with them or anything of that type.

The **Chairman**. Well, I think the interests, their interests are the same as ours, that their ships not be blown up. Isn't that so?

Secretary **Weinberger**. Well, we have continuing concern, as I mentioned, over what might be considered their broad, or long-term interests, which we do not think are applicable, that those concerns are applicable to the other nations with which we are working.

The **Chairman**. You do not believe that, at least when it comes to the escort operation, since they have the same interest that we do, that there should be the same liaison as we would have for other ships, do you?

Secretary **Weinberger**. I am not aware of any situation, Senator, in which there has been any problems caused by a lack of understanding of what they are doing and what we are doing.

I don't think of any, as I think back over the activities that have been going on.

The **Chairman**. That is not quite a reply to my question, but I can understand your reluctance.

Secretary **Weinberger**. Well, I do think they have very different, long-term interests than we do, or than any of our allies did.

I think that has to be borne in mind. I do think that whatever required the exchange of information, or whatever the situation requires, is there. But I do not think that the degree of joint activity that we have with our allies is indicated or warranted or desirable with the Soviet escort operation.

But they are also escorting, as you know, war materiel and arms to Iraq, and probably to Iran, too. So that is quite a different set of missions than we had.

The **Chairman**. Thank you.

While I appreciate your thoughts, I would like to see us move down, as I mentioned earlier, the U.N. path. We will have a hearing next week on this, and maybe out of all of this discussion and questions back and forth, perhaps we will be able to move down that road, sharing the responsibilities with our allies to a greater extent than we are now.

I thank you very much for the courtesy and the time you took to come up here.

Secretary **Weinberger**. Thank you, Mr. Chairman. It was a very nice hearing, as always.

The **Chairman**. This hearing is adjourned.

[Whereupon, at 12:31 p.m., the Committee adjourned.]

THE U.N. ROLE IN THE PERSIAN GULF

WEDNESDAY, OCTOBER 28, 1987

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The committee met at 10:15 a.m. in room SD–419, Dirksen Senate Office Building, Hon. Claiborne Pell (chairman of the committee) presiding.

Present: Senators Pell, Biden, Sanford, Adams, Helms, Pressler, Murkowski, Evans, and McConnell,

The CHAIRMAN. The Committee on Foreign Relations will come to order.

OPENING STATEMENT OF SENATOR PELL

The CHAIRMAN. I apologize to the witnesses and the people here, but we had a rollcall vote going on which meant a slight delay in getting started and underway this morning.

It is a very real pleasure to welcome former Secretary of State Cyrus Vance and former Secretary of Defense Elliot Richardson back before our committee.

Secretaries Vance and Richardson have come forward with a proposal to place the U.N. flag on nonmilitary shipping in the Persian Gulf and provide U.N. patrol boats as escorts.

They have argued, quite persuasively in my own view, that U.N. flagging would help minimize tensions in that volatile region; would provide a far more cost-effective escort arrangement than the current unilateral United States program.

As one who was involved in drafting the peacekeeping provisions of the very U.N. charter 42 years ago in San Francisco, I well recall the high hopes we had then for an effective U.N. peacekeeping role.

Over the ensuing decades the United Nations has not lived up to that early promise, to my regret.

While serving U.S. interests by reducing tensions in the Persian Gulf, the Vance-Richardson proposal also provides a means to strengthen the United Nations.

In addition, I am most interested in hearing from the former Secretaries concerning the U.N. role in ending the Iran-Iraq war, and the implications this issue has for U.S. participation in the United Nations.

At this point I would ask unanimous consent to insert in the record, an excellent stimulating article, by Mr. Allan Gerson, entitle, "The U.S. Should Quit Kidding Itself About Reflagging."

[The material referred to appears in the oppendix.]

The CHAIRMAN. And I also, without objection, would insert in the record at this point a statement by our colleague Senator Moynihan who would very much like to be with us but is at another committee at this time.

[The statement of Patrick Moynihan follows:]

STATEMENT OF SENATOR MOYNIHAN

Senator MOYNIHAN. Mr. Chairman, two renowned public servants have again stepped forward to help us address a most pressing need: that of devising a coherent, practical means of protecting nonbelligerent shipping in the Persian Gulf. Former Secretary of State Cyrus Vance and former Secretary of Defense Elliot Richardson have proposed that the U.N. flag be flown on such shipping, and that U.N. peacekeeping ships serve as escorts. This concept has great merit; and now, thanks to Chairman Pell, the Foreign Relations Committee and the Senate as a whole can begin to give this proposal the attention it deserves.

My own position on this issue was made clear on July 22, 1987, when I joined with our distinguished chairman and Senators Hatfield, Kassebaum, and Kerry to introduce Senate Concurrent Resolution 66, urging the adoption of the measures advocated by Secretaries Vance and Richardson. The President would be called on to instruct the Permanent Representative of the United States to the United Nations to urge that nonbelligerent ships transiting the Gulf be permitted to fly the U.N. flag. Those ships would first have to submit to inspection by U.N. officials to guarantee that they were carrying no war materiel. The United Nations would also be called on to offer peacekeeping vessels to escort such ships while in the Gulf.

The United Nations has provided for such temporary reflagging in the past. In August 1982, for example, the United Nations allowed its flag to be put on ships that evacuated members of the Palestinian Liberation Organization from Lebanon. Such temporary reflagging would not require a permanent change in the flag of national registry, and—as in the Lebanon operation—could be done without a full-scale revision of safety standards and other registry criteria.

The United Nations also has a long history of deploying forces to monitor cease-fires and to help keep the peace. The United Nations has not carried out a collective security action since the Korean War. However, the United Nations—with the guidance of former Under Secretary General Brian Urquhart—devised the alternative of deploying peacekeeping forces under the U.N. flag, interposed between belligerents to discourage further clashes and to identify whichever side dared violate a U.N.-sponsored ceasefire.

It is time to take such peacekeeping forces to sea. Not to provide an invulnerable screen around nonbelligerent shipping, nor even to discourage attacks through the capacity to inflict heavy losses on attackers. Rather, peacekeeping forces would provide for diplomatic deterrence against attack, based on the long-term costs to belligerents of breaking entirely with the community of nations.

Preliminary analysis by the United Nations Association of the United States of America suggests that Canada, Sweden, India, and a large number of other members of the United Nations could provide patrol boats suitable for this escort mission. To limit the risk that the U.S.S.R. might exploit such a mission to deploy additional forces in the Gulf—albeit under the U.N. flag—the resolution calls-for nations other that the Soviet Union and the United States to provide the necessary forces. However, nothing in this proposal would prejudice U.S. efforts to protect rights of innocent passage—including self-defense by U.S. naval vessels and ships under their protection.

Mr. Chairman, Secretaries Vance and Richardson have devised a proposal of great promise. Let us call on the administration to pursue its implementation.

The CHAIRMAN. If either of you gentlemen would care to lead off, we would be delighted.

STATEMENT OF HON. CYRUS R. VANCE, FORMER SECRETARY OF STATE, NEW YORK, NY

Mr. VANCE. Thank you, Mr. Chairman. Elliot and I very much appreciate your interest in our proposal for a U.N. mission to flag, inspect and escort nonbelligerent commercial vessels in the Persian Gulf.

The essential concepts of our concept are reflected in Senate Concurrent Resolution 66 submitted by Senator Moynihan and cosponsored by you and by Senators Hatfield, Kassebaum and Kerry.

Our proposal was put forward in the spirit of bipartisanship with which we hope the Senate will address your resolution. It is critical that Congress and the executive branch find ways of working together to develop workable policy options that are capable of engaging the sustained support of the American people.

We believe that our proposal could constitute one of the building blocks of a coherent strategy toward the Gulf.

The stakes in the Gulf today are extremely high for America and for the world. The United States needs to fulfill its commitment to friendly states in the region while avoiding, if possible, an escalation of an already violent confrontation.

Despite large doses of diplomatic and military pressure, the situation remains volatile. The risks to international shipping in the Gulf are no less today than when the United States commenced its reflagging and escort operation 3 months ago.

The land war grinds on day after day, while Tehran appears increasingly willing to engage in brinksmanship with the growing U.S. fleet.

Fortunately, the diplomatic wheels are beginning to turn again, largely through the good offices of the U.N. Secretary General. And other Western nations are beginning to do their share to help keep the sealanes open.

But the situation remains fragile, unpredictable, and dangerous.

When we first suggested in early July that the United Nations take up the burden of protecting international commerce in the Persian Gulf, it was all too clear that the United States simply could not get the job done working alone.

The task requires a high degree of multilateral cooperation engendered by a sense of common purpose.

The costs of doing it alone have proved to be substantial and are growing. The Defense Department estimates the escort mission will cost the United States about $240 million a year, about 25 times as much as our proposed U.N. force.

Ironically, this is more than the entire U.S.-assessed contribution to the United Nations, a sum which somehow cannot be found in our trillion dollar budget.

More importantly, the risk to human life, American and others, is increasing, not shrinking. And unless a convincing rationale can be developed for why we are doing what we are doing, American credibility and stature will also be at risk.

The basic reason for introducing a U.N. presence in the Gulf, then, is simple enough: To share the burdens and risks while building a broad international consensus behind a series of steps to bring the war to an end on land, sea and air, as called for by Security Council Resolution 598.

This proposal has sparked wide interest in the United States because people recognize that America needs policy options in the Gulf to avoid being locked into an open-ended commitment whose future course it does not control.

And this alternative can work, because it would be an integral part of a larger U.N. effort to build peace in the region.

Our proposal has the considerable advantage of simplicity. First, the U.N. Security Council would authorize the provision of a U.N. flagging, inspection, observer and escort force for the Persian Gulf whose mandate would be reviewed monthly by the Security Council.

Second, the seafaring peacekeeping force to be drawn from countries other than the United States and the Soviet Union would consist of a relatively small number of military observers and related crew and military support personnel, communication equipment, and seven lightly armed patrol boats. And it would be financed primarily through user charges levied on the flag vessels, or by contributions to a voluntary fund.

Third, commercial vessels other than those of the belligerents, about to enter the Gulf, and seeking a U.N. flag, would need to submit to inspection by UN personnel to assure that they are not carrying military contraband.

Fourth, those vessels passing inspection would receive a symbolic UN flag to fly alongside their national flag during their passage through international waters, when they would also carry a team of one or two U.N. observers, and in some cases would be escorted by a lightly armed U.N. patrol boat.

Fifth, before authorizing the mission the five permanent members of the Security Council would consult intensively about possible diplomatic, political, economic and military sanctions which they would be willing to jointly undertake against any state or group which interferes with the safe passage of a U.N.-flagged vessel.

Following the successful tradition of U.N. peacekeeping forces on land, the seafaring force would rely on the power of diplomatic deterrence, and the implicit threat of a joint response by the major powers to discourage attacks on lightly armed U.N. forces.

Neither Iraq nor Iran would feel compelled to challenge the U.N. flag, or eager to risk a confrontation with the whole U.N. community, especially with the United Nations serving as the chief broker in the peace process.

For the United States the multilateral alternative to a "go-it-alone" strategy would have considerable advantages. First, it would make it far easier politically and constitutionally for important Western countries like Japan, West Germany, and Norway to support and participate more actively in a joint effort to keep the Gulf open and to end the war.

Second, it would provide a far greater range of possible sanctions, ranging from diplomatic censure, economic sanctions, oil or arms embargoes, to joint military action to choose from if the U.N. force is challenged.

Third, a prior Security Council authorization for a U.N. presence in the Gulf would make it much easier for the United States to rally international support to its side should its exchanges of fire with Iran continue to escalate.

The United States, moreover, is currently placing a high priority on seeking an arms embargo against Iran for its refusal to comply with the ceasefire provision of Resolution 598.

Should such an embargo be organized against Iran, Iraq or both, to be effective it would have to be backed by a system of inspecting vessels entering the Gulf as proposed in our plan.

The observer teams envisaged in our proposal could serve as the sea-based observers called for in Resolution 598 to monitor compliance with the cease fire on land, sea, and air.

Before closing, I would like to stress that placing a modest U.N. mission in the Gulf would not require the United States to abandon its commitments there. The right of each country to self-defense under article 51 of the U.N. Charter would in no way be affected by this action.

What the United States would gain, however, would be much greater flexibility in choosing how best to pursue its interests and responsibilities in the region.

There is every reason to believe that the United States and the United Nations could coexist peacefully, even symbiotically, in the Gulf.

Mr. Chairman, you have known the United Nations since its inception 42 years ago in San Francisco. You do not have to be reminded that there are times when the world organization can play an extremely valuable role in advancing the common security of the United States and the larger international community.

This is one of those times. Thank you.

[The prepared statement of Secretary Vance appears in the appendix.]

The CHAIRMAN. Thank you very much, Mr. Secretary.

Secretary Richardson.

STATEMENT OF HON. ELLIOT L. RICHARDSON, FORMER SECRETARY OF DEFENSE, WASHINGTON, DC

Mr. RICHARDSON. Thank you, Mr. Chairman.

I am pleased to have the opportunity to discuss with you and with the other members of this distinguished committee the possibilities for involving the United Nations more directly in the effort to bring the way in the Persian Gulf region to an end.

Secretary Vance has very ably and clearly outlined the major points of our proposal for a U.N. mission to flag, inspect and escort commercial vessels in the Gulf.

We both appreciated, of course, Senate Concurrent Resolution 66, committed, as he pointed out, by you and Senator Moynihan, and cosponsored by Senators Hatfield, Kassebaum, and Kerry.

Passage of that resolution and its companion in the House of Representatives would be an important step toward making our proposal a reality.

Secretary Vance and I along with our colleagues in the United Nations Association of the United States of America have held scores of consultations on this matter here and on Capitol Hill with top administration officials; with United Nations Secretary General Perez de Cuellar, and with representatives of other key countries.

We have been encouraged by the widespread interest and support the proposal has sparked in many quarters.

There are two principal concerns that have been raised which I would like to address this morning.

The first relates to whether a U.N. mission in the Gulf would bring about a great Soviet military presence in the region. The second concerns how the provision of a U.N.-seafaring peacekeeping in the Gulf could contribute to a resolution of the overall conflict between Iran and Iraq, on land and in the air, as well as at sea.

We have given considerable thought to these questions, and are confident that the implementation of our proposal would have a salutary effect in both cases.

U.N. peacekeeping forces have traditionally excluded Soviet and American units, precisely because their participation would raise questions about the possibility of the two global powers gaining firmer footholds in a region under the cover of a U.N. operation.

As we made clear in our writings, and as Resolution 66 specifies, the escort vessels and crews envisioned under this proposal would come from countries other than the United States and the Soviet Union.

It would be contrary to American interests, as well as those of the larger international community, to risk polarizing the conflict along East-West lines.

Relations between Washington and Moscow have not advanced to the point where Soviet and American naval forces could easily work together as part of a grand international armada engaged in joint punitive action in the Gulf.

As Secretary Vance has emphasized, our proposal calls for the provision of nothing more than a handful of small patrol boats, some simple communications equipment, and a relatively small number of military personnel to carry out the inspection and observer functions.

No major shore facilities and certainly no permanent bases would be required to support such a modest mission. This factor would make this option more palatable to the Gulf littoral states than current efforts to establish major naval support bases in the region, while allaying fears of a permanent Soviet naval presence.

It is not completely clear what Soviet Foreign Minister Shevardnadze had in mind in his September 23 speech to the General Assembly when he suggested that, "Appropriate and sufficient forces should be made effectively available," to the United Nations to ensure, "the safety of navigation in the Gulf."

We believe it would be premature and possibly counterproductive to try now to assemble and operate a major international fleet in the Gulf with United States and Soviet participation.

At the same time we should not dismiss Shevardnadze's statement out of hand. It is a striking break with the past to hear a Soviet Foreign Minister call for the introduction of U.N. peacekeeping forces in a major conflict, particularly one so close to the southern border of the Soviet Union.

To see that backed up within a few weeks by a Soviet commitment to pay arrearages to the United Nations, most of which stem from Soviet unwillingness to share in the cost of peacekeeping operations of which it did not approve, makes this a remarkable and possibly historic development.

I fervently hope, by the way, that your colleagues in the Senate and House will recognize that this action leaves the United States the chief deadbeat in terms of failing to pay its UN dues, including those for the UNIFIL forces in Southern Lebanon.

It would be a crime if the United States does not have the financial tools with which to meet this more dynamic challenge presented by General Secretary Gorbachev's new look foreign policies.

Soviet readiness to make up past obligations means they have come to endorse active U.N. peacekeeping. By contrast, America's funding cut signals not only a slackened commitment to the U.N. peacekeeping role we had pioneered, but they jeopardized realization of the potential for making the Security Council machinery work, now that both the United States and U.S.S.R. have a shared interest in halting the conflict.

Our proposal offers a way to explore the possibilities for cooperation; to test the depth of the new Soviet stance toward the UN, without going so far as attempting a joint military mission.

Both sides have an interest in seeing the war brought to a close without either Iran or Iraq gaining a military victory. The Soviets have as much to lose from the spread of Shiite fundamentalism as we do, given the large and growing Islamic population in Soviet central Asia.

An escalation of the military exchanges between the U.S. Navy and Iran, however, would put the Soviet Union in a most awkward position, given its neutrality in the conflict and its desire to keep relations with the United States on an even keel as the summit approaches.

Unanimity behind Security Council Resolution 598 suggests that the Soviet Union has apparently concluded, as have the other permanent members of the Security Council, that it is time to bring the war to an end.

While the Soviet Union has less of an economic stake in the outcome than do many Western countries, it has a major geostrategic concern with what happens on its southern flank.

As I noted earlier, the Soviets have little to gain in military terms from the U.N. presence in the Gulf, but politically, it could be quite attractive.

In Moscow, they may well see it as a step which is consistent with Gorbachev's new emphasis on the United Nations as a means for bolstering stability in troubled regions at a time when he needs to focus on long overdue changes in Soviet domestic policies and practices.

The Reagan administration and the UN, of course, are already seeking, and to some extent, getting, Soviet cooperation in the Gulf war. The mediation efforts of the U.N. Secretary General and the Security Council display of unity have required Soviet support.

A possible next step, such as an arms embargo against belligerents refusing to observe the cease fire, would be impossible without full Soviet cooperation.

It is simply nonsense, therefore, to urge that the Iran-Iraq war should be brought to an end, but that the Soviet Union should be completely excluded from the process.

Over the past few months, as the United States has pursued its unilateral reflagging operation, the Soviets have quietly expanded their influence in the region. They have relied more on quiet diplomacy and economic incentive than on displays of military prowess.

They have reached new trade agreements with Iran, even as they have maintained their relationships with Iraq.

By managing working relationships with both sides in the war, the Soviet Union has gained the kind of diplomatic flexibility which has benefited the United States in the Arab-Israeli dispute.

Moscow, in other words, does not need the United Nations to be a player in the Gulf. Only by working through the United Nations, however, have both the United States and the Soviet Union been able to take cooperative steps to further their common interest in bringing concerted pressure on the belligerents to end the war without a victory for either side.

The second concern that has been expressed, whether efforts to end the conflict in the Gulf can be tied to progress in stopping the war on land as well, is more understandable.

As we saw this summer, the unilateral U.S.-reflagging operation for a time slowed attacks at sea, but did nothing to end the land war.

United States action may actually have served Iran's interest by allowing it to keep its oil revenues flowing while it continued its land offensive.

Our plan fully recognizes the importance of linking efforts to stop the war on land and at sea. It is designed to provide incentives to the two sides to comply with the comprehensive cease fire called for by Security Council Resolution 598, rather than simply to keep the sealanes open, which would benefit Iran more than Iraq.

As a first step, our proposal calls for the flagging and escort of commercial vessels only of nonbelligerents. This would be more advantageous to Iraq in some ways, since the oil exports to its Gulf allies would be protected by those Iran oil shipments carried on its own bottoms would not be.

The U.N.-flagging umbrella could then be extended to vessels of belligerents complying with the comprehensive cease fire provisions of Resolution 598.

This would give both sides an additional incentive for seeking a peaceful settlement of their differences.

We have also recommended that the situation be reviewed monthly by the Secretary General, who would report to the Security Council, who would decide whether or not to extend the mandate of the Gulf force for another month.

The U.S. reflagging and escort operation has none of these attributes. Its coverage is spotty, limited to Kuwaiti vessels. It tacitly permits attacks on vessels under other flags.

Its continuation is not tied to progress in ending the overall conflict. There is no formal or regular review process, and its mandate is open ended.

While the presence of the U.S. fleet no doubt poses an implicit warning to Iran, its operation has not been tied to progress toward the fundamental objective of bringing the underlying conflict to an end.

Therefore, the U.S. force, unlike the far more modest one we have proposed for the United Nations, is caught in the middle of the larger context of the long running Iran-Iraq war.

The United States, with all the goodwill and naval power it can muster, simply is incapable on its own of bringing the Persian Gulf war to an end.

It is an extraordinarily complex conflict whose roots and ripples extend in many directions. It is up to the international community, with the United Nations as the organizing force, to develop a common package of incentives and disincentives capable of convincing the two sides that peace is now more attractive than war.

The United States can play an important role as catalyst and central player in this process. But it cannot do it alone.

In the end, as the Reagan administration has begun to recognize, the United Nations is the only available instrument for bringing this horrible conflict to an end.

Our proposal, building upon the important work of the Secretary General and the Security Council to date, could be a key step toward peace in this troubled and vital region.

That concludes our prepared statements, Mr. Chairman.

[The prepared statement of Mr. Richardson appears in the appendix.]

Mr. VANCE. Mr. Chairman, I would like to introduce our very able colleague, Edward Luck, who is President of the United Nations Association and is here with us at the table.

I would like to add one word if I might. Since preparing the statement which I have delivered, we have had conversations with senior officials at the United Nations, and they indicated that if a Security Council were to decide to go ahead with something along the lines of this proposal, that they would feel it desirable to add to it a small minesweeping component.

We believe that that would be a very good addition to that force.

The CHAIRMAN. Thank you both very much indeed. As you know, I am very sympathetic and supportive of your plan, and particularly, any plan that will invigorate the military staff committee or the U.N. structure.

And I was struck in this regard, too, that the Soviets have decided not only to pay up their arrears to the United Nations, but also, have made a positive suggestion about invigorating—I cannot say reinvigorating, because it was never vigorous—but invigorating the military staff committee structure, which would be a very wonderful thing indeed, and a culmination of the dreams that so many of us had in San Francisco just 42 short years ago.

One thought with regard to the vessels that you would use, and that is, I agree with you that you do not want to use the naval vessels of either of the superpowers. But have you given thought to using the white Coast Guard vessels, which give a slightly different image to the United States, and whose main mission is the enforcing of law and saving of lives, as opposed to the military force, which is the protection of the country and the taking of lives?

Would they not be an acceptable group to carry it out? Their cutters are ideal, about the size that you mentioned in your statement.

Mr. Vance. It is an interesting idea, Mr. Chairman. We have felt that it would be preferable to stick to what has been long standing practice of not having either of the superpowers involved in peacekeeping forces as such.

And therefore, we designed our proposal along that line. Certainly it is worth giving thought to as to whether your suggestion would or would not run counter to that long standing——

The Chairman. I recognize it may have a conflict of interest, because I am a retired captain of the Coast Guard Reserve. But it would seem to me a wonderful use for that service.

In opposing your proposal, Secretary Weinberger has stated that peacekeeping does not work without the agreement of the belligerents. How do Iran and Iraq view your proposal? Have you had any reactions from them?

Mr. Richardson. The thought there, Mr. Chairman, is that Iran and Iraq would have differing reasons for respecting the U.N. force, but that there is a very good chance that both would do so.

Iran, of course, as we noted, has an interest in keeping the traffic flowing, because it depends on the Gulf for the export of its oil.

Iraq has an interest in the fulfillment of the cease fire resolution, and would not likely defy the supplementation of that resolution to the establishment of this force.

In either case, any action to frustrate the force or to attack it would be an attack on the international community as a whole, and both countries would have significant reasons to refrain from doing that.

Should they do so, there would then be the need for some further response, and as we have suggested, the Security Council, we believe, should, at the time when it decides to move forward with this proposal, have considered in advance a variety of possible actions that might be taken in the event that either Iran or Iraq were to take some hostile action against the U.N. force.

The Chairman. My specific question was, has either Iran or Iraq commented on your proposal or had a reaction to it of which you are aware?

Mr. VANCE. Not to us personally. I think there have been discussions on it with the Secretary General and his staff.

I would like to comment further, if I may, on the question that you put to Secretary Richardson. It is not a fact that peacekeeping forces can only be used after a cease fire has been put into effect.

We have seen, and the United Nations itself has acted, when there were hostilities still going on, hoping to lead to the bringing about of a cease fire.

And we have suggested when we first put forward our idea that we thought that perhaps this would be a bridge that might help to bring about a cease fire, and certainly would not be inconsistent with the ultimate objective of the Security Council Resolution 598 that a cease fire is essential.

The CHAIRMAN. Am I correct in suggesting that the introduction of the U.N. peacekeeping forces, pursuant to chapters 6 and 7 of the Charter, does not require the approval of the belligerents?

Mr. VANCE. It would not, when operating in international waters?

The CHAIRMAN. That is correct. Now would the adoption of this proposal strengthen the peacekeeping functions of the United Nations? And do you believe it is in the national interest to do this?

This is what is called softball.

Mr. VANCE. I believe it would greatly strengthen the peacekeeping capabilities and perception of the United Nations to show in a situation as explosive as this one that it was possible to put together, and have the approval of the Security Council, including all of the permanent members, and more specifically, the United States and the Soviet Union, that this was a device that should be used.

And I think it would be a much needed shot in the arm for the United Nations.

The CHAIRMAN. Have you received any encouragement from the Administration with regard to your proposal?

Mr. RICHARDSON. We have discussed it with people in the administration. They have shown a lot of interest in it.

They have not made any commitment to it. But I think they would be very receptive to the potential for moving forward with it, should there be demonstrated the willingness of others on the Security Council of the United Nations to go forward.

And as Secretary Vance said, we have had significant expressions of interest from senior officials of the UN itself. So we are quite hopeful that there can be forward movement as early as this week at the United Nations.

And should that occur, that the U.S. Government would have at least a positive interest. Is that a fair statement?

Mr. VANCE. It is. And I would simply add that they have not discouraged us from proceeding with exploring this idea further.

The CHAIRMAN. Have you had any Soviet reaction one way or the other?

Mr. VANCE. Yes, expressing the fact that they have radically changed their position with respect to peacekeeping.

As we all know, for a good many years they have been opposed to peacekeeping operations, and have refused to pay for the funding.

They have reversed their position on that. They have, indeed, come forward with a proposal of their own through their Foreign Minister Mr. Shevardnadze, that calls for a peacekeeping force with components of the United States and the Soviet Union in that.

In talking with them we have said that we think that would not be a desirable thing to do, and their response has been that they're not locked in concrete, and they would be willing to constructively examine this proposal.

The CHAIRMAN. Thank you. How do you account, Mr. Secretary, for the shift in the Soviet position with us, the peacekeeper as a great huge weapon, with them, they're getting the image now of being the peacekeepers themselves. We're being put in the position of being the heavy.

Is this part of glasnost? Is this part of a broader strategy? Or how do you account from the sharp shift in the Soviet position from the days when you were Secretary?

Mr. VANCE. There has been over the last 2 years or so a very serious and hard fought debate over what the priorities should be within the Soviet Union.

The consensus seemed to have been arrived at that it is to take care of their domestic problems which are most pressing; and that seems to have the support not only of the Politburo but of the Central Committee at this point.

In that connection, it is my analysis that they have concluded that they need a period of relative quiet to be able to concentrate on the extremely difficult problems which they face in dealing with the domestic issues at home.

And as a result of that, they have reexamined their position with respect to collective security. And if one reads the September 17 speech of Mr. Gorbachev—it was originally written as a speech for the United Nations but eventually appeared as articles in Izvestia and Pravda when he did not come to deliver the speech—there is a specific statement in that that they have rethought their views and now are prepared to support collective security.

The CHAIRMAN. Does the effect of our deadbeatism in paying our dues at the United Nations have a deleterious effect on our position there in pushing a proposal of this sort?

Mr. RICHARDSON. Clearly it does, Mr. Chairman. Of course, this committee can, I think, appropriately take credit for bringing to the Floor an authorization bill that does provide for full funding.

And I think it clearly weakens the position of the United States as a leader in the United Nations. Indeed, the leader of the Free World. For us on the one side to be seeking to take advantage of its role in the Gulf through Security Council Resolution 598, while on the other letting our debt to the United Nations accumulate, especially at a time when the Soviet Union, as Secretary Vance has emphasized, and your question has emphasized, has now changed its attitude toward peacekeeping.

It is, I think, as you said earlier, in referring to the military committee, the most positive development for the potential of an effective role for the United Nations in many decades.

And it would appear from our standpoint to be essentially risk free for all the reasons I mentioned in my statement.

The **Chairman**. Thank you very much. I should have welcomed your colleague earlier, the Executive Director of the United Nations Association. I'm delighted he's with you.

The ranking minority member, Senator Helms.

Senator **Helms**. Mr. Chairman, since I have been tied up on the Floor this morning, may I yield to Senator Evans who was on time. I could not be here because I had a little matter to settle.

But I will say good morning to the two distinguished gentlemen.

The **Chairman**. Senator Evans.

Senator **Evans**. Thank you, Mr. Chairman.

I thank the ranking member. It is a delight to welcome two such distinguished gentlemen back to our committee with a very interesting proposal.

Let me set the stage and see if I am right in understanding that the U.N. Resolution 598, which has been adopted by the Security Council, has, as I understand it, been agreed to in total by Iraq, but Iran has as yet to agree to that resolution; is that essentially correct?

Mr. **Vance**. Yes.

Mr. **Richardson**. Yes.

Senator **Evans**. It seems to me that if there is a weak point in this suggestion, it is that the Iraqis have said, all right, we will agree with everything that the United Nations has now adopted.

We agree with the cease fire. We are ready to move on that. Iran has not. And if we were to embark now on a U.N. peacekeeping effort in the Gulf it would clearly, it seems to me, be viewed by the Iraqis as being beneficial to Iran more so than to their own nation, and it is my understanding that they have made no bones about it.

They are vehemently opposed to such a U.N. force, and I can understand why.

It seems to me that the weak spot is in suggesting that it would have an influence on the land war, and the only place that the Iraqis are really inflicting any harm or any difficult on the Iranis is at sea.

If we are to protect all shipping, especially that shipping which is providing free passage of oil from Iran to the outside world, does that not tip the balance pretty substantial toward the Iran and whatever continuation of the war that goes on?

Because this proposal does not bring a cease fire. All it does is escort vessels primarily to Iran, for their primary benefit, but does not bring the war to an end, and Iran has been the one that has refused to accept the United Nations' resolution on a cease fire.

Mr. **Richardson**. Let me give a partial answer. I think we need to begin by addressing the question of what purpose this proposal serves other than the interests of Iraq or Iran.

I think it's main benefits flow from the ways in which it creates far more flexible range of options for the United States, and for other countries whose paramount interest is in the observation of principles of free navigation.

We committed ourselves to the reflagging of Kuwaiti vessels for that reason. We have built up our presence in the Gulf for that reason.

We have engaged in actual exchange of fire with Iran in an indication of the same principles.

What we are suggesting is a way of putting the international community itself behind the principles rather than the United States unilaterally with all the risks that that entails.

There are other benefits from the standpoint of Iraq, apart from whatever marginal benefit there may be to the Iranian ships. After all, no ship has actually been sunk to date.

From the standpoint of Iraq, there is demonstrated an effective U.N. role which, in turn, could assert greater pressure on behalf of the other provisions contemplated by Resolution 598.

It is a way of showing that the Security Council is capable of doing something. And that, I think, would be viewed by Iraq as a benefit, so far as it has brought the prospects of an actual cease-fire closer or indeed, the possibility, in the event such a cease-fire does not go into effect, that the failure of Iran to observe it would then bring down sanctions in the form of an embargo against Iran.

Mr. VANCE. I might add that it is important to note also that this proposal would help the principal supports of Iraq. It would help insure that they were able to get their oil to the markets, not just Kuwait but others in the Gulf.

They are the ones that are providing the financial support which is absolutely necessary if Iraq is going to stay alive in the conflict with Iran.

In addition, we have indicated that if a belligerent would agree to the implementation of the cease-fire, then they could also avail themselves—that would mean if Iran would say, we want to agree so we can get our oil to the markets, they would have to agree to a cease-fire, land, sea, and air. And that is certainly what Iran wants.

Senator EVANS. Would not a more direct way to accomplish that be to enforce Resolution 598 by putting an economic or an arms embargo on both countries?

Mr. VANCE. Fine if you can get it. It is hard to get. It is going to take time. We think this will help to stabilize the situation somewhat at least, as we continue to work—and we must continue to work—to try to get the second leg of this; namely, the arms embargo.

But it ought to extend beyond war supplies, I think, to other kinds of——

Senator EVANS. That brings up an interesting question. You talk about the inspection teams of the United Nations who would board ships to ensure that there is no war materiel involved.

It seems to me that the most important war materiel being carried by ships going in and out of the Persian Gulf, particularly by Iran, is oil.

Is oil a war materiel in your view?

Mr. RICHARDSON. No.

Senator EVANS. It is not? It finances the whole war. It seems to me it is a war materiel of major proportions.

Mr. RICHARDSON. If it were, it would be undertaken to finance both sides.

Senator EVANS. Surely. But it is a quick way to bring the war to an end.

Mr. VANCE. If at some point you cannot get the belligerents to stop the conflict with a total cease fire, then I think, as I indicated in my prepared statement, that one ought to contemplate not only an embargo on arms, but an embargo on oil.

Mr. RICHARDSON. But that would be a sanction both to try to bring about compliance with the cease fire resolution, and certainly, we are not proposing anything that is intended in the slightest to be viewed as an alternative or a substitute for that resolution, or for the means of trying to secure compliance with it.

Senator MURKOWSKI. Excuse me, would you yield on just one point?

Senator EVANS. Yes.

Senator MURKOWSKI. I am curious to know, embargo on whose oil?

Mr. RICHARDSON. On the noncomplying states, which would presumably be Iran.

Senator MURKOWSKI. Thank you.

Mr. VANCE. As a matter of fact, I must add that the bulk of Iraqi oil, as you know, goes out—virtually all of it now goes out—through pipelines.

Senator EVANS. You talk about the exclusion of U.S. and Soviet forces. There is little question, however, that it is not the forces themselves, but it is the influence that is gained through participation.

In your view would this enhance Soviet participation or influence in the Gulf above what is now occurring?

Mr. VANCE. I would answer that by saying, no, I think they have already, under the current situation, increased their influence in the Gulf. And indeed, I think that this would reduce their influence in the Gulf.

As was mentioned in the prior testimony, they have, by diplomacy and by playing both sides in this, both Iraq and Iran, have been able to increase their influence with Iran as well as with Iraq.

Senator EVANS. What if this is implemented, and the United Nations flags and the small force you are suggesting start sailing in the Gulf and action is taken against either the ships—military action is taken by either side against either the ships or the patrolling craft?

What, in your view, would be the next series of events? It reminds me of, I think it was Stalin's statement of, how many divisions does the Pope has.

How many divisions does the United Nations have?

Mr. VANCE. They would have to take action and take it promptly. And that is why we have said that it is essential that the five permanent members before the resolution is passed authorizing this agree that a variety of sanctions are available, that sanctions would be put into place.

As we describe them, they run all the way from at the low end, diplomatic censure, to economic sanctions, to oil and arms embargo, and ultimately, military retaliations.

Senator EVANS. How would you accomplish military retaliation? Who would carry it out? Who would carry out military retaliation?

Mr. RICHARDSON. I just wanted to add one point on that question, Senator Evans.

The permanent members of the Security Council, would have addressed in advance the question in the event of the need for Secretary Vance said, that direct military action, of what units, of theirs or of the fleets of others could be made available for that purpose.

But you could have vessels operating under the aegis of the Security Council essentially the way that vessels of their countries are operating under their own independent national initiatives at this stage.

Mr. VANCE. Could I add one thing more? Our proposal does not require that the United States cut and run, withdraw its forces.

They remain in the area, and can remain in the area. Our right, if we decided in terms of self-defense that one of our ships was struck, that we thought we had to retaliate, we still have that right.

The right of self defense is very clearly provided for in the U.N. charter. Hopefully, you would get a collective response, however, that would make it unnecessary for us to take that military response.

The CHAIRMAN. Thank you very much.

I would like to call on our ranking minority member for his opening statement.

STATEMENT OF HON. JESSE HELMS, A U.S. SENATOR FROM NORTH CAROLINA

Senator HELMS. Mr. Chairman, I thank you very much.

This is sort of a convoluted procedure here this morning. We have two or three balls in the air.

Mr. Chairman and gentlemen, at the risk of being accused of raining on somebody's parade, I confess a skepticism about this plan. We can get into that with my questions a little later.

But specifically, for example, I wonder if U.S. support for such a plan would signal an abdication from our position of leadership in the Persian Gulf, notwithstanding the assurances that you have given that no such intent exists.

While I had questions about the wisdom of our own reflagging policy when it was initiated, I must say that the policy has succeeded in improving America's stature in the Arab world.

Furthermore, I question the wisdom of deferring such a large role in the Persian Gulf to the United Nations. While it is the Western nations that have the greatest interest in the stability of this region, the United Nations is, as a former U.N. Ambassador noted before this committee a couple of years ago, primarily a Third World organization predisposed to the positions and the policies of the Soviet Union and the Eastern bloc.

Furthermore, I have questions regarding the specifics of that plan. For example, how would the United Nations retaliate if reflagged ships were fired upon or sunk by the Ayatollah's freewheeling revolution guard?

And how do we expect China, for example, to agree to a U.N. peacekeeping force when the chief threat to shipping are the Silkworm missiles being supplied by China?

These are typical of the reservations I have, and we can get into those, Mr. Chairman, when I have my round of questions.

Thank you very much.

The CHAIRMAN. Thank you, Senator Helms.

Senator Biden.

Senator **Biden**. Thank you. Let me compliment you both for trying to find a way out.

It was obvious to me, from the beginning that our reflagging policy was bound to bring about the results that it has thus far. I do not quite see these results as being the same as those articulated by the Senator from North Carolina. I see a gradual and predictable escalation of military action and greater involvement of U.S. military personnel in the region, but ultimately I believe the United States will have little ability to deal with what might be viewed by some as the final necessary action.

We already apparently contemplated, although chose not to, strike Iranian soil. What happens when we make that judgment? Where do we go from there?

I think there are so many imponderables in this situation that we have in a sense overstepped wisdom here. And I compliment you in trying to come up with an alternative to what is obviously a serious problem.

But let me ask you two questions. You answered part of my first question, Secretary Vance, when you indicated that your proposal would not require the withdrawal of U.S. military personnel from the Persian Gulf.

Tell me what you anticipate the reaction of the other—although this is not a NATO exercise—NATO nations that have naval forces in the Gulf would be if such a resolution were adopted, and if UN flags were flown?

Would you anticipate that they wuld maintain their military presence, in the region? Or would you anticipate their withdrawal?

Mr. **Vance**. I would anticipate them maintaining a naval presence until it was established that it was working, and then they might thin out.

But I do not think they would withdraw substantial numbers under any circumstances in the foreseeable future.

Senator **Biden**. The second question I have relates to what Senator Evans raised, which was obviously, at least at the outset, it is not something that appears to me nor to Senator Evans that the Iraqis would welcome, stopping the sea war but not the land war, to oversimplify it, if that were possible, is not very much in their interest.

But you both went on and indicated that at some point, there would have to be, at a point prior to the adoption of this policy by the United Nations, the Security Council would have to, in advance, agree on sanctions that would be available, and that they would contemplate if United Nations—a U.N.-flagged ship were attacked.

And that seems to me to be the crux of the dilemma with this proposal. Absent that, quite frankly, I do not see where this has much value at all.

With that, it seems to me it has significant value. And a high probability of success.

I ask both of you: What is your judgment that the prospects of the Security Council agreeing in advance on the type of sanctions that they would be willing to impose, and what impact, what significance, what staying power, would such an advance statement have?

Because to end the whole thing here, from my standpoint, what I worry about is the damage that might be done to a UN initiative filled with hope and expectation, a response coming from most likely the Iranians and the Security Council being unwilling to take any action that would be contemplated as a sanction once an attack against a U.N.-flagged vessel or escort ship occurred.

It seems to me that is the worst of all worlds. Then the United States must get back in it, with greater vigor than before. The United Nations has been shown to be not a very useful vehicle for maintaining peace, et cetera.

So would you both respond to the likelihood of sanctions being agreed to in advance and, whether or not, if they were, you would put any high degree of faith in those sanctions being followed through?

How much would it mean if such agreement occurred in advance? Secretary Richardson.

Mr. RICHARDSON. I might take a shot at that. First, Senator Biden, I do not think personally that it is critical that the Security Council have actually agreed in clearcut terms what its precise response should be.

I think it should have had full discussion, and recognize that there could arise situations calling for an appropriate response in the whole range that Secretary Vance referred to, extending from political censure through economic sanctions to an arms embargo or direct military action.

But I think until you have an actual situation to address, it would be hard to get and perhaps impossible to get a specific commitment as to what the response would be.

And the second part of your question, suppose they do not do anything despite a flagrant hostile action against the United Nation's lightly armed escort fleet, that would of course be damaging to the United Nations. It would be damaging, for that matter, to the prestige of the countries who have committed themselves in the first instance to the establishment of the United Nations presence.

The United States and the U.S.S.R. and the other permanent members would have already put themselves on the line in support of this proposition. And I would think under the circumstances that the chances that they would back it up are pretty good.

But I would say, in any event, it is well worth the try, because it is consistent with the spirit of unanimity underlying Security Council Resolution 598.

It is an opportunity for the United Nations to demonstrate its capacity to deal with a significant security-related peacekeeping situation. The United States, and here I perhaps am anticipating a question by Senator Helms because he touched on this earlier, the United Nations offers perhaps the most significant unexploited opportunity for U.S. leadership that exists in the world today.

And this has been true for a long time. The U.S. interest is an interest in demonstrating the capacity to bring about concerted action in situations where our unilateral action is not in fact capable of controlling the outcome.

What we have done so far, and have put ourselves at risk in a situation in which we do not have more than a limited capacity for follow through. We could be increasing the demonstration of our leadership through being able to get this kind of proposal adopted in the Security Council, and we would be risking possibility of failure in the event of unanimity on support of sanctions following up violation of this arrangement.

But I think it is worth it. And if it failed, we would still be no worse off than we are now.

Senator BIDEN. Well, that is my concern. I suspect that if it failed—and I am not sure it is not worth the risk—the political consequences in this body and in this country or on this administration would be worse and we would be worse off.

But that is a subjective judgment on my part.

Mr. VANCE. Could I just add, I concur with what Elliot has said. I would point out that there will not be any approval if the United States does not. There is no way the Security Council——

Senator BIDEN. If the United States is not in favor of it?

Mr. VANCE. Yes. And probably the same thing is true of the Soviet Union. It all depends on what the United States decides it wants to do, and what the Soviet Union decides it wants to do on this matter.

I think Elliot is absolutely right in saying they are not going to agree to a specific sanction for a particular incident; they are going to agree to a range of sanctions that they would be willing to put into place if there is an attack on a UN-flagged vessel.

Senator BIDEN. My time is up. Let me conclude by suggesting, with regard to something you and the Chair have been discussing—that is, the rationale for the Soviets' apparent change in attitude about peace-keeping forces. Is this an outgrowth of glasnost or is it something else?

Let me offer a possible explanation, if there is time, and you could comment, if you wish.

It seems to me one of the reasons why the Soviets have not agreed to peacekeeping efforts in the past is that they have viewed the conflicts as wars of liberation that, in every other place, have been to their benefit.

I may be too cynical and maybe I have been here too long, but it seems to me the Soviets change in attitude has nothing to do with glasnost. Rather, it stems from the fact that there is no beneficiary from the outcome of the war that would in fact help the Soviet Union.

Therefore, peacekeeping is in the interest of the Soviet Union for the first time in probably 35 or 40 years.

In the Middle East, it was clearly to the benefit of the Soviet Union that there not be successful peacekeeping based on their policy.

In Korea, it was clearly not to their benefit for peacekeeping to succeed.

I think the Persian Gulf is the exception because the two belligerents, neither of whom if they won would benefit the Soviet Union and the Soviet Union may lose significantly if either wins.

And so I would respectfully suggest that it does not have much to do with glasnost; it has to do with reality. And the reality is that they have a big problem.

It does not mean that we cannot take advantage of it in a positive way, but if you have time, I would like to have you comment on that observation.

Mr. VANCE. I would like to comment on it. I think it is quite true that they are motivated only by reality. And the reality is that they have got huge problems at home that they have got to attack.

And they cannot attack them with the kind of posture that they had before, and that is why they are doing it.

You know, it is interesting to note that the Chinese have also changed their position with respect to peacekeeping. And having been on the negative side of this, have now said that they have rethought the issue.

Why, specifically, there, I do not know; but it is just interesting to note.

Mr. RICHARDSON. I would add that I think your conjecture is certainly part of the reason why they are willing to go along these lines here.

But I think that surely what Secretary Vance says is also true. I think one has to assume that the policy of glasnost is dictated by very hardheaded considerations, and mainly, the extent to which the Soviet economy has continued to lag farther and farther behind the West, which is a source, not just of embarrassment, but of serious internal strain.

And it makes sense, realistically, for the Soviet Union to be behaving the way they are behaving, including their behavior in this situation.

But it also creates opportunities which, if we are cool and play our hand right, somewhat better, I might add, than we have been playing it lately in terms of some aspects of our dealing with Iran and the Gulf, there could emerge from it a relationship between the U.S.S.R. and the United States that is, in fact, to our mutual long term interest.

It is definitely in the interests of the United States to engage directly in situations that could escalate to the point of confrontation in Third World conflicts.

If the Soviet Union realized that it was not in their interest either, we would both be better off.

The CHAIRMAN. Thank you very much.

Senator Helms.

Senator HELMS. I presume that you are operating under the assumption that the United Nations could create the peacekeeping force under chapter 7 of the U.N. Charter, is that correct?

Mr. VANCE. Yes.

Senator HELMS. Now, article 47, which falls under chapter 7, provides for a military staff committee to advise and assist the Security Council on, and I quote: "The employment and command of peacekeeping forces. "

Do you know under which Undersecretary of the United Nations this military staff committee falls?

Mr. VANCE. Do I know——

Senator HELMS. Under which Under Secretary of the United Nations this military staff committee falls?

Mr. VANCE. Perhaps Mr. Luck knows.

Mr. LUCK. I believe it is the Secretary General directly.

Senator HELMS. Well, I will tell you. It falls under the Under Secretary General for Political and Security Council Affairs.

Now, who is the current Under Secretary General for Political and Security Council Affairs?

Mr. VANCE. It is a Soviet whose name I do not know.

Senator HELMS. Mr. Ustinov. And it is always, as I understand it, a Soviet.

But I guess the question I am leading to, Mr. Secretary and Mr. Richardson, does your proposal in anyway eliminate this Under Secretary General's role in the peacekeeping force?

Mr. VANCE. No, and we do not require that the military staff committee be revived in order to carry out our proposal. It really is unconnected with that.

Senator HELMS. Well, yes it is connected. I beg to differ with you respectfully. You have got a Soviet in charge. And this gives me some heartburn.

Mr. VANCE. The military staff committee does not presently have any operative role. But what we are proposing would be carried out by action of the Security Council, which of course will require the unanimous approval of the five permanent members. They're responsible.

Mr. LUCK. May I comment? The peacekeeping forces do not fall under Ustinov's area. Peacekeeping forces are handled by the Under Secretary General for Special Political Affairs. In this case, it is Marrack Goulding, a British citizen, not a Soviet.

In fact, it has been carefully worked through the years so it would not be under Soviet control. And that is one reason why the Soviets have always been negative about peacekeeping because they have not been involved.

Before Marrack Goulding, it was Brian Urquhart, another British citizen, who was in charge of these affairs.

In terms of Iran and Iraq, it is Diego Cordovez from Ecuador who is in charge of negotiations with Iran and Iraq and with the Afghan situation.

So the Soviets, neither in terms of the Iran-Iraq diplomacy, nor in terms of the running of peacekeeping forces, have been in charge.

Senator HELMS. Well, I do not know exactly what you are saying, but I think you had better look at the pecking order. That Soviet is still there, and he will still be there.

As to China: Why would the Chinese would agree to the formation of a peacekeeping force when the Chinese-made Silkworms are a chief threat to nonbelligerent shipping?

Mr. VANCE. The Chinese are making a big point at this time of the fact that they have changed their views with respect to peacekeeping, and therefore, have indicated that they have an open mind at this point with respect to participating or approving such a peacekeeping activity.

With respect to the question of their providing Silkworm missiles, I do not think there is really much question at all but that they have provided Silkwork missiles.

They say that they have not. I find that very hard to accept.

Senator **Helms**. Well, let me come at it another way, then. Are you saying then that you think the Chinese would support an arms embargo against Iran?

Mr. **Vance**. I obviously do not know whether they would or not. I think that they might, yes.

Senator **Helms**. You think that they might? Well, I believe Senator Evans touched on this, but let me drag it back across one more time.

Specifically, how would the United Nations respond if a UN reflagged ship were to be fired upon by Iran? What would the United Nations do specifically?

Mr. **Vance**. The United Nations would take one of a range of actions, and I outlined what that range was, running from, at the lowest end, diplomatic censure on through sanctions up through military retaliation.

And it would depend on the particular incident.

Senator **Helms**. And who would do the retaliating?

Mr. **Vance**. The United Nations would have to have a U.N. military force designated to do that retaliation if you went to military retaliation.

Senator **Helms**. Which would probably be the United States?

Mr. **Vance**. If it were an American ship that was also flagged by the United States certainly would have the right to act as a matter of self-defense.

Senator **Helms**. Well, the point I am making, and I do not mean to be disrespectful about it, it makes me nervous to have a broker called the United Nations involved in this area.

But maybe I could be persuaded down the road.

Well, considering how little concern the Iranians have for world opinion, how do you expect the U.N. flag to serve as a deterrent to attacks by the Iranian revolutionary guard? I do not see what this would change or accomplish over what is going on now.

Mr. **Vance**. The main thing I think to be said is that the UN flag, especially when flown as a result of action by the Security Council of the United Nations, including unanimous support of all its permanent members, reflects the concerted position of the international community as a whole.

It is tougher to defy that than for Iran in a situation where our relations are already badly strained, to demonstrate its willingness to take on the United States in the Gulf in one way or another, when to take on the United Nations as a whole creates serious diplomatic problems for them.

If they do so, the United Nations is then faced with the question of what do we do now? It is possible, of course, that there could be no agreement on any response, which would then lead the United States and other individual countries to decide whether or not they would do anything.

In the case of Korea, we were acting under a General Assembly resolution. Most of the work was done by us, and it might be that in this situation, that the United States would feel it needed to act in vindication of the U.N. action.

In any event, though, you have a situation in which you have made it more difficult for the Iran or Iraq to attack nonbelligerent shipping than it is now, and you have given the United States potential for acting, if it does act at all, in the name of and in support of the united position that we and other countries have taken, rather than being, and being perceived to being, acting unilaterally.

I believe that the United States consistently needs to recognize that its role in the world, its potential for exercising potential strength, depends on our willingness patiently to build cooperative multilateral broad-based responses wherever that is possible.

I think that is the only way in which, in the long term, we can offset the relative decline in our ability to bring to bear military force in pursuit of U.S. national interest.

Senator **Helms**. Well, that may be, and I would hope it would prove to be that way if we get into this.

Mr. **Vance**. Senator, may I just underscore a point that Elliot made?

Senator **Helms**. Sure.

Mr. **Vance**. I think one of the things that helped the United States to stay the course in Korea was that it was part of a United Nations operation.

That fact was helpful back at home and it was certainly helpful in the world community.

Senator **Helms**. My Lord, I hope we do not get into a similarly protracted situation.

Mr. **Vance**. Well, I would hope we would not. But on the other hand, I think it is important that we be patient and do what has to be done.

Senator **Helms**. Mr. Chairman, I ask your indulgence. Let me ask one question that can be answered very quickly.

Secretary Weinberger has stated repeatedly that peacekeeping forces do not work unless both belligerents agree.

I guess you agree with that?

Mr. **Vance**. I say that in the end they must agree, but that the peacekeeping forces can have a helpful role in pushing people into agreeing with a cease fire, as has been the case before.

Senator **Helms**. Is there an example—and I am not questioning your recollection or your position—is there an example where they started off with two belligerents, one of whom did not agree, and it worked out?

Is there an example?

Mr. **Vance**. Yes, I think both Congo and Cyprus are two places where that——

Senator **Helms**. I am sorry?

Mr. **Vance**. Congo and Cyprus were two instances.

Senator **Helms**. Well, I do not think either one of those have been resolved, Mr. Secretary. But my time is up.

The **Chairman**. Thank you very much.

Senator Adams.

Senator **Adams**. Thank you, Mr. Chairman.

Secretary Vance, Secretary Elliot Richardson, you are great public servants, and long time personal friends. I appreciate you being here.

I want you to know as I start my questioning that I believe your suggestion is rational. I am in support of it. I have some questions that I would like to ask you about it. But I want to state to you that my reason for despair. I think there are certain rational things that can and should be done in the Gulf to unify U.S. public opinion in support of a position that are not being done.

My first question is this: Under your proposal, is it true that the cargo of a noncomplying belligerent would not be protected by the U.S. operation?

Mr. **VANCE**. That is correct.

Senator **ADAMS**. Secretary Vance, would this not leave the Iranian shuttles and oil hot cargo on other vessels still open to Iraqi attack if Iran did not agree to a cease fire?

Mr. **VANCE**. Yes, it would.

Senator **ADAMS**. So that you have an incentive and a tradeoff to Iraq of stopping the Iranian oil flow out of the Gulf by utilizing the U.N. flag only to protect those who agree to a cease fire?

Mr. **VANCE**. Yes.

Senator **ADAMS**. Second, what would you do, Secretary Richardson, or either of you, with the reflagged Kuwaiti vessels which are carrying oil out of the Gulf and are a special target for the Iranians since they take the position that Kuwaiti oil is being used to actively support the Iraqi war effort?

And I say that because it is my understanding, and correct me if I am wrong, that certain oil resources of Kuwait have been devoted to the support of the Iraqi war effort. And there is a position taken that Kuwait is actively assisting, through use of oil, the position of Iraq, and therefore is assisting a belligerent.

What should we do with those reflagged vessels? This has concerned me from the beginning, because I feel that our U.S. active participation in the reflagging effort is interference in a war effort to assist a belligerent.

I think our own ships can carry things, but when we get into Kuwaiti, I think we are in very dangerous water creating hostilities, and I would appreciate your comment as to what we should do with this reflagging operation.

Mr. **RICHARDSON**. I would have two quick comments.

First, Senator Adams, your point is one that I wish your colleague from the State of Washington had heard in conjunction with his point that our proposal is primarily beneficial to Iran, insofar as——

Senator **ADAMS**. I do not think it is. I think it is beneficial to Iraq rather than Iran, but it may be evenhanded.

Mr. **RICHARDSON**. You have pointed out a significant offsetting factor which at least contributes to balancing the results.

The second point I would make is that of course the Kuwaiti tankers have the U.S. flag on them now. They could have the U.N. flag in addition to that, because our proposal of course does not contemplate any reregistering of ships.

So that they could carry the U.N. flag as well as the U.S. flag, or they could substitute the U.N. flag.

Senator ADAMS. Would you do this only if Iraq agreed to the cease-fire?

Mr. RICHARDSON. No, because we would not view the Kuwait ships as belligerent ships.

Senator ADAMS. Secretary Vance, would you do this only if Iraq agreed to the cease fire?

Mr. VANCE. No. I would do what Elliot suggested. They are not belligerents, and therefore, should be treated as people who avail themselves of what is provided for under our proposal.

Mr. RICHARDSON. They are not in any more of a dangerous situation than they are—the U.N. flag would certainly not increase the chances that they would be attacked.

Senator ADAMS. Well, I do not think that. But the U.N. flag on such vessels in my opinion would immediately pull the United Nations into the potential of having to either, as Secretary Vance pointed out, go through a series of sanctions ranging all the way from diplomatic sanctions to potential military retaliation, and that concerns me.

That is why I asked you about those vessels, since they are a primary target for Iran under Iran's rationale.

I am not going to say it is right or it is wrong, but it certainly has created an escalation of hostilities, and I just want to know whether you would want the United Nations pulled into that escalation?

Mr. VANCE. My view on that is that it would be a mistake to precipitously withdraw the American flags from those ships, because it might be misinterpreted.

I think that the U.N. flag flying alongside the American flag on those ships would provide the kind of diplomatic deterrence that we have been talking about.

Therefore, I would not want to see us precipitously withdraw our flags. I think it was a mistake to put them on in the first place, but we are in there now.

Therefore, I would deal with them that way.

Senator ADAMS. I may agree with you, Secretary Vance. But what I am concerned about is that those particular vessels place the U.N. into hostilities. They have a different status I believe you will agree than other shipping in the Gulf.

Mr. VANCE. Yes, they do. There is no question that Iran perceives it differently, because they still consider us the great Satan, and I do not think they are going to change their mind on that rapidly.

Senator ADAMS. Do you believe that the United Nations could ship Iranian hot cargo—and I refer to that as a transportation term of placing oil on various vessels that Iraq might attack in the Gulf—since I understand Iran uses a shuttle system that is Iranian down at least as far as the straits, and then there is a transfer. But I do not know the degree to which there is actual transport out of Kharg Island by vessels other than Iranian vessels.

Mr. VANCE. And the question is what?

Senator ADAMS. The question is under your plan is it conceivable that U.N. flags would be placed on vessels carrying oil in any capacity of a belligerent that did not agree to the cease fire?

Mr. VANCE. Any belligerent that does not agree to the cease fire should not be able to avail themselves of the privilege of flying the U.N. flag.

Senator ADAMS. So that all vessels leaving Iranian ports loaded with oil, Iran being a belligerent as opposed to Kuwait not being a belligerent would not fly the U.N. flag?

Mr. VANCE. Yes, in my opinion.

Mr. RICHARDSON. I concur in that. And I concur in Secretary Vance's earlier answer to your question.

Senator ADAMS. My final question is this: If a U.N. flagged ship is attacked by either belligerent, you have indicated under article 51 of the U.N. charter that retaliatory action would be allowed by the flagged nation.

Is it your position that those nations would retain that power, both defense and retaliation, regardless of the U.N. flag?

Mr. VANCE. Yes.

Senator ADAMS. And therefore you have——

Mr. VANCE. But they are not the ones probably who are going to be doing it. If you are going to retaliate, they are not going to have the capability.

Senator ADAMS. It is my understanding that your U.N. force has really no retaliatory——

Mr. VANCE. It would have a small arms type of capability, and they could defend themselves; there is no question about that.

But that is not really that great a defense. It is basically diplomatic deterrence, to be pursued if violated, by real sanctions or military action.

Senator ADAMS. I thank you both for your testimony. I tried the other night to indicate that I thought there should be a sealing off of this war using diplomatic means.

I think your proposal is a method of doing it, and I compliment both of you for having made it.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Adams.

Let me add that what the Secretary said shows the utility of the Coast Guard cutters. They are exactly what you are describing there.

Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman.

Gentlemen, I want to commend you for coming forth with your proposal. I think your wealth of experience and background obviously is something for consideration by this body.

I guess my problem is a little bit like the situation with the stock market, and the issue of confidence. And as it applies to the stock market or applies to the United Nations, why, my confidence is a little shaken to say the least.

But that being the case, I am wondering, gentlemen, if indeed your proposal would not answer one phase of the dilemma that has always addressed this Senator with regard to the matter of equity in the sense of the role of the United States in the Persian Gulf.

What have we got, 35 ships there, and 15,000 military personnel that are prepared to sacrifice their lives to keep oil flowing in the Gulf, and the realization that this Nation shares very little in proportion to the benefits that the other nations share in Persian Gulf oil.

Now, is it not conceivable that in your proposal that you would have Japan and Western Europe perhaps participating on a proportional formula based on their utilization of the oil flow?

And it would seem very logical in your presentation. Secretary Vance, you indicated Japan, West Germany, Norway, so forth, who do receive these benefits.

Now, I guess my question is a bit of a professional one. But recognizing this as kind of your proposal, it is not a proposal that is being actively promoted, as I understand it, in the UN. It is being considered, but not with an awful lot of conviction or with an awful lot of momentum.

Why would it not be appropriate for those countries who are the beneficiaries to basically get aboard and present before the Council your recommendation as an appropriate role for those countries who—Japan, because of their constitutional restrictions, cannot have a military capability, but they can certainly join with the United Nations.

Why would this not be a catchall for the dilemma that is before us?

Mr. VANCE. You make a very good point, Senator. We are carrying an undue share of the burden. Others who benefit are not carrying an appropriate share.

And this would provide for much needed burden sharing.

As a matter of fact, the Nordic countries, and particularly the Norwegians, have expressed real interest in this proposal.

They have had a series of discussions with other members of the Security Council and members of the United Nations, and it is still under active consideration.

Indeed, I think it is fair to say that you will probably have consideration among the five permanent members on this in the next week or two.

There is much more interest in this—and that is not to say that it is necessarily going to be adopted—but there is much more interest than there has been in the past.

Incidentally, it is interesting to note that the Norwegians have by far the largest number of ships in the Gulf of any country. It is also of great importance to the Japanese who I think take out some 2 millions barrels of oil a day, close to that, out of the Gulf.

So clearly these others ought to be participating, and this gives them a way to do it.

Senator MURKOWSKI. Secretary Richardson, do you have anything to add?

Mr. RICHARDSON. No, I really don't. I think Cy covered the point very well. I agree with him. I think your point is very well taken.

Senator MURKOWSKI. Well, let me ask you this. Why is there not the initiative within the United Nations to move forward and accept—it appears to me to be certainly an appropriate and a responsible role for the United Nations, and why are not countries like Japan and others who are recipients providing the leadership to do so?

Mr. VANCE. Let me respond. Currently, the Chairman of the Security Council is the Italian Permanent Representative. The Italians have expressed great interest in this and and are pursuing it actively within the Security Council.

The Japanese, who will be the next Chairman, have expressed interest and are pursuing this.

One of the reasons, I think, that they have not, that have been in effect warned off is, look, we have done 598, and we are trying to put together the necessary votes to do the second piece of it which is the embargo.

Now, if you do something like this at this point it is perhaps going to rock the boat on that, so hold off.

And I think that that has been the principal deterring force up to this point in having people really deal as seriously as we feel they should.

Senator MURKOWSKI. Well, that is an understandable deterrent. It does not really address the obligation that those countries have in relationship to the role that the United States is playing to keep the Persian Gulf flow.

Mr. VANCE. Let me add one thing. All of them are also looking to see what the United States wants.

Senator MURKOWSKI. Well, Mr. Chairman, is there an intention to have an administration witness at some point in time on this matter?

The Chairman. Not as of now. That could be done.

Senator MURKOWSKI. Well, I would simply suggest for your consideration that we perhaps ask the administration to address why it would not be appropriate, the administration's point of view, to have a U.N. peacekeeping, made up of the participants primarily of the oil.

The CHAIRMAN. Forgive me, I wrote that question up, raised it very prominently I think with Secretary Weinberger, and he gave us his reasons.

The main reason he had was that he did not want to see the Soviets involved in it, and underlying it was a distrust of the United Nations.

I do not agree with him on either count, but I think that really is the administration position at this time.

Senator MURKOWSKI. Well, I am inclined to agree with you. I think it is a matter of confidence. But by the same token, you can either call the United Nations to perform in the eyes of the world by giving them an opportunity, and if they do not, you really have not lost much.

But it would seem to me that if you addressed it with a formula, it would take care of the Soviet concern on whether their involvement is significant or not, because they are not major recipients of the Persian Gulf oil necessarily. They have their own sources of supply.

And it would be a very simple and equitable formula, and one I think the United States could support in relationship to what it is costing.

My last question, Mr. Chairman, is based on a comment that I think was made by Secretary Vance with regard to embargoes, and I think as a consequence of Senator Evans responding to my asking that he yield, a reference to embargo on whose oil, and I think you responded by saying, Iran.

In your collective experience, gentlemen, have you ever seen an embargo work?

Mr. **Vance**. No embargo is going to be the decisive factor. But I have seen embargoes make a difference. If you talked to the people as I have over the years, the Rhodesians, it did have some impact on them.

And I think that is the case——

Senator **Murkowski**. On the Rhodesians?

Mr. **Vance**. Yes, it did. In the long run it did. It was not decisive. It did not change—it affected them in many ways, but over time it had some effect.

Senator **Murkowski**. Well, inasmuch as you address the issue of an embargo, and obviously, in a perfect world, an embargo would work because it would cut off the cash flow that Iran must have to continue to wage war, and they get that from selling oil.

Where do you suggest the soft spots are in an embargo? In other words, those less likely to honor an embargo?

Mr. **Vance**. I think arms embargoes are the hardest things to impose. Because there are so many international arms sellers that are willing to sell whatever they've got for a buck.

Senator **Murkowski**. And oil, it is somebody's today and tomorrow it is somebody else's.

But you are not at liberty to identify the soft spots on where you feel——

Mr. **Vance**. In terms of countries?

Senator **Murkowski**. Yes.

Mr. **Vance**. No, I do not really think so.

Senator **Murkowski**. Okay, last question then.

Mr. **Richardson**. May I just add one word?

Senator **Murkowski**. Please.

Mr. **Richardson**. Senator, I think the key to the potential success of an embargo must always depend on the other associated circumstances.

In this case clearly a critical factor is the extent to which Iran has come to a conclusion that this is a war being carried on at great cost with no realistic cost of any significant benefit to Iran.

In that event, the combination of U.N. action on various fronts, including the unanimity required to initiate an embargo, could create a decisive combination of pressures, sufficient then to bring about an end of the war.

Senator **Murkowski**. My last question, gentlemen, as we reflect on our obvious goal and the reason for your proposal to achieve a peaceful resolve in the Persian Gulf, and we discuss the merits of an embargo, and recognizing that it is hard to get everybody to play ball, and the realization that 90 percent or thereabouts of the oil from Iran is moved by ship, and I gather that is generally correct, it leads me to an obvious conclusion of the merits of a blockade.

Now, what about a U.N. blockade? It would seem to me it would be very effective, because they are either going to run the blockade and violate the military capability of what the blockade might be. It would obviously take care of the exposure than an embargo has, because you cannot control it.

If the Russians are genuinely supportive of a resolve, then this would be a very effective and sure way to take care of the situation.

It may be—the chairman is a former Coast Guard captain and he understands the merit of a blockade, but it would certainly address the issue of the oil moving by tanker, and cut off the cash flow. And it is effective, as an embargo is not.

What is your reaction to that, gentlemen?

Mr. **Vance**. It is a practical one; namely, at this point in time, I do not think you could muster the votes for a blockade——

Senator **Murkowski**. In the United Nations?

Mr. **Vance**. In the United Nations. I think you could have a chance of doing an embargo.

Senator **Murkowski**. Falling short of that, your differential is saying, not enough votes for a blockade, but enough votes to provide escorts.

Mr. **Vance**. Yes, I certainly hope so. But more than that, I feel you would have to have an understanding among the five permanent members, that it is not only escorts, but that it would include sanctions and the right to impose an embargo.

Senator **Murkowski**. My last generalization is, your fine line is doing escorts for the continued free flow of oil but not addressing you stop the cash flow to Iran, which you have already indicated the way to do it would be an embargo.

But we all recognize the effectiveness of embargoes are difficult to enforce, particularly in a commodity like oil. So I guess my traditional mode is to try to get to the bottom line on how you can achieve your objective.

And while I do not dispute the role of the United Nations in this regard, it really does not get us to the bottom line of how we force Iran into a peaceful resolve in the Mideast.

Mr. **Vance**. That falls at the end of the spectrum. That is a form of military retaliation. In the end that might be what one might decide they had to do.

But I think you would first have to try and see whether the embargo would work.

Mr. **Richardson**. I would also just add that there are other circumstances. A lot of countries could produce more oil than they are producing.

So if you could get agreement, as you might well, from the purchasers of Iranian oil to buy oil from somewhere else, you would have the same result.

The **Chairman**. Thank you very much.

Senator Pressler?

Senator **Pressler**. Thank you. I think a lot of the ground has been covered.

But just as a practical matter, in terms of day-to-day operations, how would you see the United Nations being able to patrol—they could certainly patrol, but if the situation got sticky and there were lots of encounters, do you think that the United Nations would perform effectively? Let us say that there were losses of boats and personnel and so forth.

I mean, I think what is envisaged here is that there would be this peaceful patrol. If this thing became really sticky, open warfare, how would you see the United Nations, operating in terms of chain of command and staying in there tough?

Mr. RICHARDSON. I think, Senator Pressler, that the response would have to be geared toward proportionate to the provocation.

As we have suggested in our earlier testimony, it would be important for the permanent members of the Security Council to have reviewed very carefully among themselves, in advance, the possible forms of retaliation or response they might take, in the event that the U.N. peacekeeping force were molested in some way by either of the belligerents.

And that could be a range of responses, as Secretary Vance pointed out earlier, extending from political censure at one extreme, up through military action at the other.

We see the importance of preliminary discussion of these measures as flowing from the desirability of minimizing the lag between the provocation and the response.

So as far as possible, there would be agreement on the kinds of responses that would be appropriate, depending on what action had occurred, and we think that there would be strong incentives for agreement when the time came, because the attack on a lightly armed U.N. escort vessel or a vessel being escorted would be an act of defiance of the international community as a whole.

And I think there would then be substantial unanimity that an appropriate response was called for within the kind of range we have suggested.

Senator PRESSLER. Do you have an indication or evidence that the United Nations would be willing to take on this sort of responsibility?

Mr. RICHARDSON. Only at an early stage. Let me ask Secretary Vance to respond to that. He has had more direct contact in New York with the Secretary General and with others, including representatives of the Soviet Union and other governments than I have.

Mr. VANCE. There is serious consideration of whether this proposal is something that should be put to the Security Council for a vote.

When we first proposed it some months ago it was seen as an interesting proposal, but people were more concerned, having just passed Resolution 598, in seeing what discussions would bring, before jumping into something like this.

As time has gone on, and the situation has continued to escalate in terms of the violence, there has been more and more interest, and currently, there is active consideration of this proposal in the United Nations.

And I have talked as Elliot has with a number of members of the Security Council, both permanent members and nonpermanent members.

And I think it is fair to say that at this time there is indeed serious consideration over whether this is something that they are prepared to——

Senator PRESSLER. I would imagine with the current budgetary situation that we find ourselves in here in Washington, and with the threats of a sequester, our payments to the United Nations probably will be reduced even further or will be late, and you may have covered this earlier—if you have I will read it in the record.

But almost inevitably our payments are going to be, according to their schedules, late, or less than they should be. I supported the Kassebaum amendment to try to get some reform in the United Nations, and we are now looking at $23 billion of deficit reduction.

I would predict that our contribution to the United Nations will be a chief target before we are finished, when things get sticky. According to the papers the Russians recently have decided to pay up in full.

How would these factors affect an operation such as this?

Mr. **Richardson**. May I observe, first, Senator Pressler, that I think the attempt to economize at the expense of honoring our charter obligations to the U.N. budget is not a cheap means of doing so.

On the contrary, I think it is extremely costly to U.S. leadership. It is unworthy of the United States. We are perceived as a deadbeat by other countries.

When they look at the size of our deficit, when they look at the size of the cuts that are contemplated, when they look at the cost of maintaining U.S. forces in the Persian Gulf today which run, as Secretary Vance pointed out in his testimony, at an annual rate of $240 million, which is more than our entire obligation to the United Nations, for us then to fail to appropriate these amounts places us in an embarrassing situation.

It puts us in an embarrassing position especially when we have taken the lead in securing adoption of Security Council Resolution 598. It would be even more embarrassing if we went forward with this proposal, or joined in supporting this proposal.

I will only say that somehow we need to get across the fact that the United States probably does more harm to its leadership in the world by performing in derogation of its charter obligations on this front than can be offset by vastly greater expenditures in various other ways, economic assistance, military aid, and of course, military expenditures themselves.

It is an avoidance of reality.

Mr. **Vance**. Senator Pressler, I concur in what Elliot has said. I think that we ought to be addressing the problem of failing to meet our obligations, which are required by the treaty.

There is one other thing I would like to mention in relation to your question about whether there is serious attention being given to the matter.

The staff of the United Nations had staffed out in quite some considerable detail how you would put together such a force. Preliminary estimates as to what the force would cost, where it would come from, who the participants would be, how long it would take to get the ships, communications equipment, et cetera, into place.

So it has had serious study.

Senator **Pressler**. It was my pleasure to serve as a delegate to the United Nations last year, and I observed the influence of the Third World countries collectively, and the relative lack of United States influence.

In fact the speeches and the resolutions adopted there often are anti-United States. Some of the votes were just—for example, there was a vote condemning the United States for exporting the chemical DDT, which in fact we don't export, and indeed, don't even manufacture.

Some of our allies even voted against us. There are obvious anti-United States feelings in the votes there and in the speeches.

It would seem to me that if we turned over a major security operation to the United Nations, we would be turning it over to a group of countries that probably would engage in mischief insofar as the U.S. interests are concerned.

What would be your reaction to that?

Mr. **Vance**. The composition of the Security Council at this point is a very good composition, if you take a look at it. It includes the Germans, the Japanese, the Italians, and many others that you would be glad to have with you.

Senator **Pressler**. You would not see any of these matters going to the General Assembly?

Mr. **Vance**. I do not think so.

Mr. **Richardson**. I cannot resist adding either, Senator Pressler, than the—part of what I am talking about involves U.S. leadership.

We have been behaving in the United Nations for a long time, since before this administration, passively, reactively, negatively. And we have been back on our heels because we have had no agenda.

We have been trying to tell the world the way to keep score at the United Nations is the way to keep score at a football game, that you only count the blocked kicks.

It is a great win for us if we defeat a resolution critical of one of our friends or ourselves. We do not think in terms of scoring affirmatively, because we do not have affirmative proposals.

Here is an affirmative proposal in which we have a real opportunity to take a leadership role.

Senator **Pressler**. I think, Mr. Chairman, my time has run out.

The **Chairman**. Thank you, Senator Pressler.

One final question that I had, and that is concerning the resolution 598, which is really the one United Nations pillar or anchor——

Mr. **Vance**. It is the cornerstone.

The **Chairman** [continuing]. To which everything is moored at this time.

How do you see us able to strengthen this? Because that would be a first step moving on to your proposal, I would think?

Mr. **Vance**. Well, as I said earlier, Mr. Chairman, what we have proposed is a way of strengthening the implementation of Resolution 598.

It provides that there are to be observers and our proposed U.N. force would provide those observers. Such action would increase the likelihood that one might be able to move on to the second step, namely, a cease-fire, or if not that, then tough action which would put more of a squeeze on the belligerents to come to the table.

The **Chairman**. But does not the whole thing depend on the subparagraph one, demands that a first step toward a negotiated settlement, Iran and Iraq observe an immediate cease-fire, discontinue all military actions on land, at sea, and in the air; withdraw all forces to the internationally recognized boundaries without delay.

And as long as that is not complied with, the rest of the resolution is nonapplicable.

Mr. VANCE. That is correct. And that is why there have been discussions going on very actively, for a considerable number of weeks now, as to whether or not there should be an army embargo that would force them to agree to a cease-fire.

So far they have not been able to reach such an agreement. It is not because they have not been trying. They just have not been able to put the necessary votes together.

The CHAIRMAN. Well, maybe a second resolution is called for.

Mr. VANCE. Well, I think a second resolution is called for. And that is what the Security Council members are talking about.

So far they have not been able to get the votes to do that. In the meantime, the situation continues to worsen.

And we are suggesting that our proposal might help to push the belligerents in that direction while, in the meantime, cooling down the situation in the Gulf.

The CHAIRMAN. Well, as I said earlier in the beginning of the hearing, I am very sympathetic and supportive of your proposal. I will do all that I could to see it move ahead.

But I am sure I share with you a certain disconsolate feeling at the moment as far as opportunities for success go. But let us keep pushing as hard as we can.

I encourage you to keep up your work and your drive that you have in this regard.

Mr. VANCE. Thank you, Mr. Chairman. And we do appreciate the opportunity which you have given us to come before this committee and discuss this important matter.

The CHAIRMAN. Thank you.

Mr. RICHARDSON. Thank you very much. We share those feelings.

The CHAIRMAN. Thank you. I think we have outlasted all of our colleagues except Senator Pressler and the press. But we believe in each other.

The meeting is adjourned.

[Whereupon, at 12:17 p.m., the hearing adjourned.]

APPENDIX

TESTIMONY

ASSISTANT SECRETARY RICHARD W. MURPHY

SENATE FOREIGN RELATIONS COMMITTEE, MAY 29, 1987

PERSIAN GULF: STAKES AND RISKS

The U.S. Policy Interest in Brief

Mr. Chairman, the Administration welcomes this opportunity to appear before your committee as part of our ongoing consultations with the Congress on developments in the Gulf.

The U.S. today has three overriding objectives in the Persian Gulf: to galvanize the international community to press for a just end to the Iran-Iraq war; to motivate the Iranian leadership to agree to cease their aggressive posture and rejoin the ranks of peaceful nations; and to prevent a strategic gain by the Soviet Union in the region. Neither task is easy, but both the stakes and the risks to major U.S. and free world interests are extremely important, making it equally important to pursue these tasks. Over the coming weeks we will be working intensively with both our allies and our friends in the Gulf to obtain support for this critical effort. At the same time we will be completing our plans for the protection of U.S. flag vessels in the Gulf and for keeping the Strait of Hormuz open to the free flow of oil. No action will be taken to implement this protective regime until the President is satisfied that we will be able to do it properly and until the Congeess has been fully consulted.

The Context

Until the fall of 1986 the Iran-Iraq war was remarkably contained. It was destructive, bloody, and wasteful, but the inherent dangers of the war's spillover to third countries in the Persian Gulf were largely unrealized. Since 1983 there had been a tanker war, to be sure, but despite the many vessels hit, crews killed and injured, and commerce disrupted, the international community and the shipping industry had lived with the problems. Insurance rates went up; crews got high risk compensation; overland trade routes were expanded; but there seemed no imminent threat to the basic flow of trade into and out of the Gulf.

In retrospect, a series of decisions taken by Iran during 1986 have changed that false impression. The Iranians negotiated for and began to receive Chinese-origin Silkworm land-to-ship missiles; the first was test fired, from its site within the narrow Strait of Hormuz, in February 1987. It is important to remember that Iraq has no direct access to shipping; its oil is exported via pipelines through Turkey and Saudi Arabia. The Iranian navy stopped, searched and took a Soviet arms carrier to Bandar Abbas port in August. Though that ship was eventually released, by September the Soviet navy had responded by introducing a frigate on prolonged patrol into the Gulf for the first time.

There are now seven Soviet ships present in the Gulf--and just outside it in the Gulf of Oman.. Also during the fall, Iranian direct pressures and intimidation efforts against Kuwait increased substantially. These efforts have continued--with special emphasis just before the Islamic Summit in January in Kuwait and again recently.

The Iranian Dilemma

While we cannot be sure of Iranian motivation for these steps, they seem to have been based on false assumptions. The Iranians may have calculated that both the international community and non-belligerent third parties in the Gulf would accommodate to these moves to expand Iranian influence and clout as it sought to put pressure on supporters of Iraq.

Iran's war effort has not gone well, since its success in seizing the southernmost tip of Iraq at al-Faw in Feburary 1986. It has made almost no headway since; even its limited advance near Basra in January-February 1987 cost it tens of thousands in lives in lives and enormously materiel losses, yet yielded little. Further, Iran's defenselessness was highlighted during the July-November 1986 period when Iraqi jets daily hammered at Iran's critical economic infrastructure. As a result, crude exports plummeted to well below one million bpd; Iran had to import substantial, and costly, amounts of petroleum products during the fall. National income was radically reduced--perhaps to an all-time low of $6.5 billion vice $15 billion in 1985. Foreign exchange reserves were largely depleted. Domestic unemployment was high -- despite having almost one million men mobilized and under arms, and having suffered enormous casualties during the war.

Thus, despite Iran's apparent ability to sustain enthusiasm for the war effort among its population, by any objective standard the Iranians have not made significant advances on the ground in the past fifteen months. And the ground war is where Iran has its strength. It is virtually a non-player in the air war. This leaves only the shipping war -- and intimidation against Arab governments who support Iraq.

This may explain the Iranian decision to spend $700 million on the Silkworm missile system for possible use in blocking the Strait of Hormuz, in a year of extraordinary belt-tightening. It may also explain the sustained intimidation of Kuwait -- most recently the fires this last weekend at the Kuwaiti oil refineries.

But the Iranian calculations have been incorrect: the outside world has taken steps to protect its interests. We have; the British and the French have. For their part, the Soviets have moved both to protect their shipping and exploit new opportunities to advance their interests. The Kuwaitis, smarting under Iranian threats and intimidation, have turned to outside powers for demonstrations of support. Iranians have reacted to these developments with fresh threats. They are clearly unhappy with the trends--no success on the battlefield, a growing outside naval presence in the Gulf, growing international diplomatic pressure to end the war, and, most importantly, no signs of weakening of Iraqi defenses.

U.S. Interests: A Consensus

As Secretary Shultz noted to this Committee in his testimony of January 27, "American interests in the Persian Gulf have long been readily defined."

We have a vital economic stake in seeing that the region's supply of oil to the Free World continues unimpeded.

We have a strategic interest in denying the Soviet Union either direct control or increased influence over the region or any of its states.

We have major political interests in the non-belligerent Gulf states, both in their own right and because of their influence within the Gulf and beyond.

Let me elaborate briefly on the subject of Persian Gulf oil. The U.S. and particularly its allies are substantially dependent on oil imports today, much of which comes from the Gulf. This dependency will sharply expand in the future. In 1986, 46 percent of the oil imports of OECD Europe was from the Gulf; the comparable figure for Japan was 60 percent. Whereas only 15 percent of our total imports of 5.2 million barrels per day originated in the Gulf in 1986, that level will rise significantly in the years ahead as our overall imports rise and supplies from other sources decline. Most of the world's oil resources and excess capacity are located in this area.

We are working closely with our allies and friends in the International Energy Agency to reduce the vulnerability of our economies to oil supply disruptions. And we are being successful. But we must not forget that only small supply disruptions, or threatened disruptions, can have major adverse price impacts -- because of short-term psychological factors. The supply disruptions of 1973-74 and 1978-80 were less than 5 percent, but they led to a quadrupling of oil prices in the first instance and more than a doubling in the second. Even a much smaller price hike caused by a real or perceived supply threat could levy a substantial cost on our economy.

Thus, I think those who argue that others, not the United

States, have the oil problem, or should be concerned about the Gulf situation, miss the point. Our economic well-being in involved, particularly since our economy is the most oil intensive of the major industrialized nations. That others may suffer more is not a persuasive argument for us to do less than our interests require.

Iran is an important element of our considerations as we pursue these multiple interests. That country has been, and will remain, a major factor in the region, both because of its size and strength and because of its strategic location alongside the Soviet Union and Soviet-occupied Afghanistan. Iranian policy has a direct impact on our strategic, political, and economic stakes in the Gulf. And the current Iranian Government directly affects us in another way: through terrorism, which it continues to support and export as an instrument of state policy.

Our various interests in the region give the United States an obvious stake in better relations with Iran. The President has said that the United States recognizes the Iranian revolution as "a fact of history." We look to an eventual improvement in U.S.-Iranian relations, but our interests are directly threatened by the Iranian Government's pursuit of its bellicose and terrorist policies. Changes in Iran's pursuit of its war with Iraq, its sponsorship of terrorism, and its collusion with terrorist forces elsewhere in the region will be a necessary before our bilateral relations can begin to improve.

The tragic and unanticipated Iraqi attack on the USS Stark on May 17 has refocussed national attention on the question of our interests and the policies we have structured for pursuing them. What is noteworthy about the current reassessment and debate, in the public media and in Congress as well as within the Administration, is that U.S. interests in the region and in helping to end the war, are not challenged. The debate is focussed on how we go about protecting and promoting those interests. It is useful to recognize this fact -- and it is an important message this hearing will send to this critical region: our internal debates do not reflect any discord over our goals, which enjoy wide bipartisan support.

Ending The War

The U.S. is actively pursuing diplomatic efforts to get the war ended. Aside from the bloodshed and waste of this conflict--now in its seventh year--it is the continuation of the war which creates circumstances in which:

--Soviet influence and presence continue to grow.

--Threats to non-belligerent third parties, like

Kuwait, increase.

--Threats to U.S. interests mount.

As the President noted in his two key statements on the war in January and February, it is time now for the international community to become more active to end this conflict. We have repeatedly called for an immediate ceasefire, withdrawal to borders and comprehensive negotiations. We are taking an active role on this issue at the United Nations Security Council and the war will be a subject of discussion at the upcoming Venice Summit.

The Soviets

While the Soviets have said that they favor an early end to war, they are a principal supplier of arms to Iran and their friends in Eastern Europe and North Korea are suppliers of armaments to Iran. They have been able to manipulate the natural anxieties of the non-belligerent states of the region to their benefit--and are pressing actively for increased diplomatic, commercial and military relations. It is important to remember that the Persian Gulf has long been a strategic object of intense Soviet interest; but the Soviets have been largely excluded from playing a significant regional role because of the views of most of the littoral governments.

The Soviets have steadily pursued a campaign of disinformation, contending that the U.S. works to further enflame the war in order to better establish our military presence in the Gulf. This is irresponsible and outrageous propaganda. But if the Soviets have convinced themselves that it is true, I have a straight-forward challenge for them: join us and the international community in concrete steps to end this war now!

What would those steps be?

Focus on Iran

Iranian willingness to consider and discuss an end to the war is the missing link in all diplomatic strategies addressing the problem. Thus, by virture of its own intransigence and stubborn commitment to the war, Iran invites international opprobrium and action.

One key method we have revived is our Operation Staunch -- our effort to inhibit military resupply to Iran from our friends and allies. It has been successful in many ways -- it complicates, delays and makes more expensive Iranian arms procurement. With the exception of China, Iran has not been able to gain access to a steady supply of high technology military equipment from any major producer, although there is a supply of conventional weaponry to Iran from North Korea and Eastern European state-run arms industries as well as a wide variety of Western sources.

The Soviets could do much more to close down and/or complicate these supply channels. So could some of our friends and Allies. With concerted international efforts, Iran's logistic ability to pursue the war could be further constricted. It is internationalizing this effort that is the new element in our Security Council initiative.

Though Iran may seem impervious to outside pressures, its war effort is highly import-dependent. Iran's domestic arms industry is unable to produce what Iran needs to prosecute this war. Thus, should Iran continue to prove unwilling to engage in negotiations, in our view, it is rightly subject to an internationally-mandated arms embargo.

And Iraq

Iraq for years has been willing to negotiate an end to the war. It has accepted virtually all reasonable international efforts to pursue negotiations and mediation of the war, including the key United Nations Security Council resolutions. We do not see it in our interest to have either belligerent gain a victory in this war; and we support the territorial integrity and independence of both countries. However, because of our interest in seeing the Iranian revolution contained within Iran, it is important that Iraq be able to sustain its defenses.

Our bilateral relations with Iraq have expanded substantially since diplomatic relations were re-established in 1984. It is because of our ability to communicate clearly and frankly with each other that a dangerous tragedy, like that of the attack on the USS Stark, has been kept in context and managed so as to preserve our larger relationship with Iraq. Iraqi willingness to promptly accept responsibility for the unprovoked attack; its agreement, in principle, to provide compensation; and its suggestion that a joint U.S.-Iraqi team investigate the attack -- all reflect a forward movement in a relationship which was severely strained in November when information about our previous approach to Iran became public.

Without compromising the content of that investigation, I might add that the U.S. team received good cooperation while in Baghdad. We both are committed to ensuring that such a mistake not recur.

And Kuwait

Kuwait is the non-belligerent Gulf state which is receiving the brunt of Iran's public and private pressures. Kuwait's location, its proximity now to Iranian troops occupying al-Faw in southern Iraq, and its small size have made it a target of opportunity for the Iranians. Iranian efforts to sway Kuwait from its policy of support for Iraq run the full gamut of pressures: assassination attempts, sabotage of economic infrastructure, training of subversives, attacks on shipping, as well as public and private threats and ultimatums. Iran presumably calculates that Kuwait is the weakest link on the Arab side of the Gulf. If Iran is successful in coercing a change in Kuwaiti policies, it will no doubt target other Gulf states.

The Shipping Problem

Thus there is a very large stake involved in the Iranian effort to intimidate Kuwait -- as is now most evident in the shipping attacks. Iran's attacks on non-belligerent shipping and emplacement of the Silkworm missiles at the narrow Strait of Hormuz violate principles of freedom of navigation and threaten the free flow of oil through the Strait of Hormuz.

Because Kuwait has turned to both the Soviet Union and the U.S. for help and support in the face of these attacks, the Iranian actions have also created circumstances in which both Superpowers were asked by the beseiged Kuwaitis for protection.

We have longstanding commitments to the security and stability of friendly regional states, including Kuwait. In addition, Iranian attacks threaten to cause the further spread of the war; Kuwait happens to be the first target after Iraq. Additionally, we know that the Soviets were more than willing to take the opportunity created by the Iranians to thrust their own presence into a previously unwelcoming Gulf. Thus, in the view of the Administration, it is consonant with our policy to agree to engage in discussions with the Kuwaitis on some measures of protection. Those have been ongoing for the past few months and are nearing fruition.

Heightens Risks

There is no doubt that the developments of the past nine months in the Persian Gulf have heightened the risks of a spread of the war to third parties. Miscalculations on the part of Iran--and Iran's inability to make headway on the ground war--have created circumstances in which the previous limitations on the conflict -- geographic, political and strategic -- are eroding. Despite these immediate matters of concern, there is a bright side to this change -- Iran's growing frustration at Iraq's ability to sustain its defenses. But that is a positive development only in the longer term, and we have an immediate need to deter Iran from making cheap gains through intimidation and blockage of shipping in the Gulf.

U.S. Purposes

The U.S. first deployed a naval presence in the Persian Gulf in 1949. Over the decades this presence has demonstrated the continuity of U.S. interests in this resource-critical region. And, while we are determined to maintain our presence in the Persian Gulf -- and to assist our friends when they need it and ask for appropriate assistance -- our posture is defensive of legitimate interests in access to the region. We have no interest in provoking any power. Our immediate goals are deterrence of attacks on shipping and bringing an end to the war.

We will not carry our desire to be unprovocative, however, to the extreme sought by Iran. The Iranians have been clear that their strategic goal is to keep us, as well as the Soviets, out of the Gulf.

And the Need for Allied Support

It is critical to Western interests that the complex and dangerous situation evolving in the Persian Gulf be resolved in ways which promote the longterm stability of that region. This requires, among other things, the containment of the Iranian revolution within Iran and the blocking of further Soviet strategic access to the area. The only way to accomplish these basic goals is to bring about an end the Iran-Iraq war. As it continues--especially in its trends of the past year--it creates an environment where peaceful, moderate regimes are increasingly at risk, where Iranians who want to export their revolutionary model by any means gain ascendancy in Tehran, and where nervous and anxious moderate regimes invite Soviet involvement--especially when they are uncertain about our involvement and staying power. The result is an explosive and dangerous mix of colliding national interests, growing insecurity, tactical miscalculations and cynical strategic manipulation.

Since the interests of the entire Western world are involved in the Gulf, the U.S. would welcome -- indeed, expects -- renewed expressions of public support and assistance from our Allies in Western Europe and Japan. These Allied efforts can take many and varied forms -- diplomatic initiatives designed to bring about an end to the belligerency; agreements to further monitor and restrict the flow of arms to Iran as the recalcitrant party, and cooperation of naval units present in and near the Gulf.

And the Gulf Cooperation Council States

We may well need further support from the GCC states. While the specifics of such requirements remain under study, we will actively and forthrightly seek such facilitation of our efforts -- which have to be joint if they are to be successful. We are willing to assume our global responsibilities and do the job. But we must be sure we have the necessary means to accomplish our objectives--and this includes appropriate and active support from Allied and friendly governments whose interests are as heavily involved, if not more so, than ours in this strategic region.

Consultations With Congress

As the Secretary stated in his letters to Congress following the attack on the Stark, the President has directed that the relevant Committees and leadership on Congress be fully briefed. As we go forward with the efforts I have outlined, we intend to keep the Congress fully informed and will take no action to implement the protective regime with Kuwait until the President is satisfied that we will be able to do it properly, in consultation with Congress.

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Reflagging Foreign-Flag Vessels to U.S. Flag: Past, Present, Future

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The reflagging process was initially formalized by the U.S. Coast Guard with the printing of Navigation and Vessel Inspection Circular Number 10-81 (NVIC 10-81) issued October 5, 1981. Since that time, U.S. Coast Guard regulations have changed, and an economic downturn coupled with a surplus of cargo vessels worldwide has made purchase of existing vessels an attractive alternative to new construction. This has been especially true for our recent buildup of the Ready Reserve Fleet. These facts, in addition to the short turnaround time inherent in the technical review and inspection of a reflagging, caused the Coast Guard to update its reflagging guidance by issuing change one to NVIC 10-81 (NVIC 10-81, CH-1) on June 5, 1985. In the future, as more international standards are accepted and incorporated into the regulations, updated guidance for reflagging will again be necessary. Whatever form this guidance takes, it must remain flexible.

Equivalence to U.S. Coast Guard standards: NVIC 10-81

ON MARCH 24, 1980, the "Omnibus Maritime Regulatory Reform Revitalization and Reorganization Act of 1980" was proposed by the United States House of Representatives to revitalize maritime policy, reorganize certain Government agencies, and reform the regulation of maritime affairs in the United States. This act allowed for "a bulk carrier vessel constructed in a foreign shipyard which was delivered for use prior to enactment of the law" to be documented under the Laws of the United States and eligible for operating differential subsidies, provided it was built to "approved vessel classification society standards that are substantially equivalent to United States Coast Guard standards." This set in motion a Coast Guard initiative to determine how a vessel built to foreign standards could be substantially equivalent to United States Coast Guard standards. Guidelines were prepared and used on the MV *Cygnus* and MV *Lyra* [1][4] and eventually became an integral part of NVIC 10-81, "Coast Guard Certification and Inspection of Certain Categories of Existing Vessels," issued on October 5, 1981. At the same time the Coast Guard realized that guidelines for inspecting other vessels not specifically addressed in the regulations should be included in NVIC 10-81 to make them more useful. Therefore, in addition to reflagging foreign-flag vessels, NVIC 10-81 covers U.S.-flag vessels undergoing a major alteration, uninspected U.S.-flag vessels being brought under certification, and wrecked vessels eligible to register under 46 U.S.C. 14.

Although this Act covered areas in addition to reflagging foreign-flag vessels, many of which have since significantly altered the U.S. merchant fleet and the shipbuilding industry, the primary concern of the Coast Guard was how it could propose to upgrade foreign-flag vessels to give them equivalent levels of safety to vessels built to U.S. standards. At the same time, the Act proposed a reduction in U.S. regulation. A Navigation and Vessel Inspection Circular (NVIC) was chosen as the most appropriate medium for providing a uniform set of guidelines and remaining consistent with the position of less regulation. From the beginning, it was stressed that these guidelines were a means to determine that a foreign-flag vessel brought under Coast Guard certification met the same level of safety provided by the applicable Coast Guard regulations. Finally, by using a NVIC, the guidelines could remain flexible, be put in place readily, and be changed or updated quickly. The soundness of this decision was validated by those responding to the recent Notice Inviting Public Comment on NVIC 10-81.

At the time NVIC 10-81 was issued, SOLAS (Safety of Life at Sea) 74 was the only international construction standard in effect. Although the Coast Guard was successful in incorporating many U.S. safety standards into SOLAS 74, there was still a substantial difference between this standard and U.S. construction standards. This safety gap has been substantially narrowed with the first and second set of amendments to SOLAS 74. However, we must realize that SOLAS is the baseline international requirement that all vessels must meet and that many administrations have requirements that exceed SOLAS. When NVIC 10-81 was issued, major differences remained between foreign and U.S. commercial vessel standards in fire fighting, machinery, electrical and steering systems, structural fire protection, approved equipment, material specifications, and stability standards. These and other differences were addressed in NVIC 10-81 and a means to determine equivalence to U.S. standards was given.

Implementation of these new guidelines was not without problems. Materials for piping systems conformed to vastly different standards, and establishing equivalence to U.S. material specifications remains a difficult process. Fire fighting systems not only had incompatible fittings but were also designed to different criteria. Structural fire protection material standards for foreign vessels varied greatly from country to country, and demonstrating equivalence to U.S. flammability standards was time-consuming and often resulted in foreign materials not meeting U.S. flammability rates. Owners complained of inconsistencies in interpreting the NVIC. There were often delays in providing properly translated drawings to the Coast Guard. This, coupled with a short turnaround time for plan review and inspection, sometimes caused last-minute delays in vessel deliveries.

As part of its broad-based maritime development effort encompassing shipbuilding and ship operations, the Department of Transportation studied the 1981 conversion from German flag to U.S. flag of two ships acquired by Lykes Bros. from Hansa Lines for charter to the Military Sealift Command. The focus of the study was on the cost of implementing Coast Guard safety requirements and their effect on the competitive position of the U.S. maritime industry. An admitted deficiency of the study was that NVIC 10-81 was not in place at the time of these reflaggings and draft guidelines were used. Nevertheless, the conclusions and recommendations section of the report indicated many valid areas where the Coast Guard could decrease costs without impairing vessel safety. The conclusion most revealing about future reflagging costs is the effect of the amendments to SOLAS 74 on foreign vessel safety. This conclusion is as follows:

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[2] Commander, USCG; chief, Compliance and Enforcement Branch, Merchant Vessel Inspection Division, Office of Marine Safety, Security and Environmental Protection, U.S. Coast Guard Headquarters, Washington, D.C.

[3] Lieutenant commander, USCG; executive secretary, Ship Structure Committee, Office of Marine Safety, Security and Environmental Protection, U.S. Coast Guard Headquarters, Washington, D.C.

[4] Numbers in brackets designate References at end of paper.

Presented at the April 23, 1986 meeting of the Chesapeake Section of THE SOCIETY OF NAVAL ARCHITECTS AND MARINE ENGINEERS.

The views expressed herein are the opinions of the authors and not necessarily those of the Department of Transportation or the U.S. Coast Guard.

> "One factor leading to reduced reflagging cost is the recent progress in narrowing the differences among various national ship safety standards. The most recent international agreements, as embodied in the 1981 and 1983 Amendments to SOLAS 1974, would effectively eliminate or substantially reduce many of the incremental regulatory costs for recently built foreign ships being reflagged. Specifically, the differences between U.S. and foreign flag ships in the areas of structural fire protection and ventilation will be greatly reduced for those ships complying with the 1981 amendments to SOLAS 74. In addition, the 1983 amendments to SOLAS 1974 eliminated most of the differences between U.S. and foreign flag lifesaving system requirements, and in some respects, SOLAS 74/83 exceeds present U.S. requirements. The acceptance of the 1981 and 1983 Amendments to SOLAS 1974 tends to validate the Coast Guard requirements in those areas."

This study and other comments from the marine industry pointed out reasons to change or update the guidelines on NVIC 10-81 and other Coast Guard inspection policies. As stated earlier, one reason the guidelines were promulgated in NVIC form was to keep them flexible. The goal of the Coast Guard is to maintain vessel safety and at the same time try to improve the competitive position of the U.S. marine industry. Updating NVIC 10-81 to include the latest SOLAS amendments was consistent with this goal.

A need for change and update: NVIC 10-81, CH-1

As indicated earlier, there were problems with using NVIC 10-81. The ongoing Department of Transportation study on reflagging also indicated a need for the Coast Guard and industry to examine ways to improve the reflagging process. As a result, the Office of Merchant Marine Safety published a Notice Inviting Public Comment (NIPC) on the guidelines for reflagging foreign-flag vessels [2].

This notice was published in the *Federal Register* of Monday, March 12, 1984. In addition, copies were mailed directly to that portion of the private sector directly affected by reflaggings. Marine industry publications were also notified and most published information on the notice and how it could be obtained. Finally, copies were mailed to each Coast Guard District Marine Safety Office to be distributed to the marine industry in its region.

While an estimated 200 firms were individually given the opportunity to respond and notification was given in many publications, only eleven responses were received. Although responses were few in number, they did represent a cross section of the marine industry (two naval architect/marine consultants, three shipyards, one maritime association, four ship owner/operators, and one classification society). Informal comments were also received internally from Coast Guard Marine Inspection and Merchant Marine Technical Offices. Most importantly, nearly all of the group responding had recent experience with a reflagging.

The Notice Inviting Public Comment pointed out many areas on foreign-flag vessels that, at that time, needed to be modified for the vessel to meet U.S. standards. The problem areas identified were as follows:

- Fire zone insulation materials failed Underwriters Laboratory (UL) fire tests, necessitating replacement in accommodation areas.
- Carbon dioxide (CO_2) systems were altered to increase discharge rates.
- Firemain and fire pumps were altered to increase capacity, and auxiliary services were eliminated from the firemain.
- Ventilation systems were modified to separate fire zones.
- Plastic pipe in concealed locations in accommodation spaces was replaced.
- Non-fire-retardant lifeboats were replaced.
- Sea valves were renewed to provide ductile housings.
- Fuel tank valves were replaced with positive-closure valves.
- Fire resistant fuel and lube oil hoses were provided.
- General alarm systems were segregated.
- Steering gear control systems were upgraded.
- Solid-core electrical wire was replaced with stranded wire.
- Nonessential loads on the emergency generator were reduced to ensure the reliability of the emergency power system.
- Porcelain electrical fixtures were shock-mounted.
- Automation sensors, alarms, and interlocks were upgraded.
- U.S. Coast Guard-approved fire extinguishers and lifesaving appliances were required.

It was also pointed out that many of these modifications would be needed for vessels to meet the current standards of many foreign-flag states. The NIPC asked for comments on any portion of the guidelines and specifically asked if the guidelines should be published as regulations.

The comments received from the private sector on the NIPC are on file at Coast Guard Headquarters. Copies of the comments can be obtained from the Coast Guard Marine Safety Council (G-CMC) file for Docket CGD 84-013. Based on the comments received from the NIPC and the results of the Department of Transportation (DOT) study on reflagging, the following action was taken:

1. Since a majority of the comments received stated NVIC 10-81 should remain in its present form as guidelines and should not be incorporated into regulations, but that it needed to be updated, NVIC 10-81, CH-1 was published. The NVIC form gives adequate guidance and allows for flexibility in the future.

2. As stated in the DOT study, "The experiences of two vessel owners point up a need for a reassessment of Roll-on/Roll-off vessel (RO/RO) CO_2 system standards." This comment was also received as a result of the NIPC. The Coast Guard required that 100 percent of the carbon dioxide required for a RO/RO space be released in two minutes, while SOLAS 74, as amended, requires release of two thirds of the carbon dioxide in ten minutes. As a result, the Coast Guard conducted full-scale tests on both standards at the Coast Guard Fire Test Facility in Mobile, Alabama [3] in February 1985. These tests were conducted in a cargo hold of the *Mayo Lykes* modified to simulate a RO/RO automobile carrier. Copies of the report can be obtained through the National Technical Information Service. The results of these tests showed that both systems were effective in extinguishing fires. As a result of the findings, a notice was placed in *Federal Register*/Vol. 50, No. 77 of April 22, 1985, accepting the SOLAS standard until the 1981 amendments to SOLAS 74 are incorporated into Coast Guard regulations. NVIC 10-81, CH-1 accepts either fire extinguishing system.

3. Many inconsistencies and reference errors in NVIC 10-81 were identified by comments to the NIPC. In addition to major revisions to the electrical engineering and pollution regulations, numerous policy changes have taken place since the publication of NVIC 10-81. NVIC 10-81, CH-1 eliminates the inconsistencies identified by adding some new sections for clarification and updating many sections whose governing regulations had been changed since the original publication of NVIC 10-81.

4. The automation section of NVIC 10-81 did not include reference to the most recent requirements in NVIC 6-84, "Automated Main and Auxiliary Machinery; Supplemental Guidance On." The automation section was rewritten in NVIC 10-81, CH-1 and includes the latest Coast Guard guidance on vessel automation. In addition, rules for vessel automation that have undergone public comment will be placed in Coast Guard regulations in the near future.

5. Systems meeting SOLAS 74, as amended, will be given wider acceptance in NVIC 10-81, CH-1. Inert Gas, fire detection, automation, steering, and other systems will now be accepted under certain conditions by the Coast Guard for reflaggings provided the latest amendments to SOLAS are met.

6. Both the DOT report and one commenter to the NIPC discussed increasing plan review efficiencies. A major recent change in the Coast Guard's Commercial Vessel Safety technical organization should solve many past reflagging problems. The Coast Guard has initiated the consolidation of field technical offices (mmt's) and concurrent establishment of a new unit, the Marine Safety Center (MSC) [4]. The MSC will provide for centralized plan review and will be established in the Washington, D.C. area in the summer of 1986. Although the MSC was formed primarily as a result of the Coast Guard's continuing efforts to use resources more efficiently, it will also help to solve many problems associated with reflaggings. The consolidation from three offices to one centralized office will allow for a more consistent approach to plan review and interpretation of NVIC 10-81, CH-1, as well as other regulations enforced by the Coast Guard. The centralized office will be better able to develop a database on equivalencies used in previous reflaggings. Both of these benefits should decrease the time required for plan review. In addition, consolidation of these offices will allow for more manpower flexibility in responding to a reflagging, which often must be completed in a compressed period of time.

7. Due to interest in reflagging mobile offshore drilling units (MODU's), requirements for reflagging these units were added to NVIC 10-81, CH-1.

8. A continuing problem with reflagging has been the evaluation of foreign material specifications for equivalence to acceptable domestic specifications. The Coast Guard has funded two projects with the National Bureau of Standards to facilitate the material equivalency process. The result of these projects is the publication of two reports that are available to the public. One report sets forth a rational methodology for comparative assessment of foreign and domestic materials [5] and the other gives a table of specific foreign and domestic materials that have been demonstrated to be equivalent (some with reservations) [6]. In addition to this effort, Coast Guard technical offices have compiled databases of materials that have been accepted as equivalent to domestic materials. As stated earlier, this database will be improved and future acceptances facilitated with the formation of the Marine Safety Center.

9. Both the plan review and inspection sections of NVIC 10-81, CH-1 stress preliminary work by the vessel owner or his representative. A recommendation of the DOT report states: "Under the guidelines of NVIC 10-81, an owner can now plan, survey, and pretest a vessel to identify problem areas and seek equivalencies." NVIC 10-81, CH-1 has emphasized this by requesting "a report of vessel deficiencies" to accompany the "Application for Inspection" (see page 3—Plans, Correspondence, and Administrative Procedures). The report should list those areas of the vessel that do not meet the requirements of the guidelines and explain how the problem areas will be addressed. This will elicit early dialogue from the vessel owner with the plan review and inspection offices on problem areas and reduce the possibilities of delay in vessel certification. In addition to the increased emphasis on dialogue in NVIC 10-81, CH-1, internal Coast Guard guidance was updated to stress early and complete dialogue between the inspection and plan review offices. Emphasis was placed on the receipt of adequate drawings by the plan review office as soon as possible and for determinations of equivalence to be made by the inspection office when this is possible and most advantageous to the timely completion of the inspection process.

10. As recommended by Mr. Raymond Armstrong in an earlier paper on this subject, "The language of plans, technical manuals, label plates, and notices, as well as the availability of industrial standards in the English language should be confirmed early in the contract, as this can increase the cost of the conversion as well as slow down the engineering and approval process" [7]. This is also emphasized in NVIC 10-81, CH-1, which recommends that the procedures in NVIC 8-84 "Recommendations for the Submittal of Merchant Vessel Plans and Specifications" be followed. The importance of submitting legible plans, in English, cannot be overemphasized. The submission of illegible plans that were not properly translated has delayed reflaggings in the past. By placing himself in the shoes of someone trying to review his plans, the owner, or his representative, can save time and money following this recommendation.

The actions taken in the recent change to NVIC 10-81 and internally should achieve the goal of facilitating the reflagging process, while maintaining the high safety standards of the U.S. merchant fleet. In a recent Maritime Administration request for proposal (RFP) for the procurement of existing vessels for the Ready Reserve Fleet, emphasis was placed on the timely submittal of quality plans. The schedule of "key events" for the RFP recommends the early collection, consolidation, and translation into English of plans and specifications, and the submission of the "Application for Inspection," plans, and specifications to the Coast Guard four months prior to the vessel's arrival at the shipyard. If this were a high priority in every reflagging, fewer delays and a smoother process would result.

The future

The future climate for reflagging will not change drastically from the recent past. As long as there is desirable and available excess vessel tonnage worldwide, reflagging will remain an attractive alternative to new construction. Table 1 lists vessels reflagged to the U.S. flag to date. It can be seen that the list is filled with RO/RO vessels and containerships, many of which were purchased for the Military Sealift Command's active and Ready Reserve Fleet. We expect the Military Sealift Command (MSC) to continue its vessel purchasing program. In addition, a majority of the National Defense Reserve Fleet (mothballed fleet) was built in the 1940-to-1945 era, and much of it will need to be replaced with newer vessels. Although many of these vessels will be replaced with retired MSC-owned vessels, some will be purchased from the commercial fleet.

Many of the vessels listed in Table 1 have also become part of the U.S. commercial fleet, and this type of reflagging will also continue in the near future. Some wrecked vessels, MODU's, and offshore supply vessels are also listed in Table 1. Although these types of reflaggings are few in number, we expect them to continue. As stated earlier, as long as the purchase of existing excess tonnage worldwide remains an economically attractive alternative to new construction, reflagging will continue [8].

Keeping this in mind, the Coast Guard will endeavor to make the reflagging process as efficient as possible while maintaining vessel safety. A variety of recent Coast Guard initiatives will help both industry and the Coast Guard as the reflagging process continues to mature. In addition to NVIC 10-81, CH-1, other evolutions will facilitate reflaggings. As pointed out in the conclusions of the DOT study, the passage of time will be a major factor in improving the reflagging process:

> "Another development that will tend to reduce the cost of future reflaggings is increased contact between Coast Guard and foreign shipbuilders and suppliers through new construction and reflaggings. The beneficial effects are twofold. First, the Coast Guard is becoming familiar with foreign systems and materials and is more likely to accept equivalencies. The entrance of foreign suppliers into U.S. markets should gradually give Coast Guard experience and confidence in other standard-setting organizations, which should in some circumstances avoid the need for Underwriters Laboratory testing. At the same time foreign manufacturers, in servicing the U.S. market for the first time, are changing their materials and methods to adapt to Coast Guard requirements."

As the latest SOLAS amendments are incorporated into the Coast Guard regulations, future foreign and U.S. vessel requirements will grow more similar, making equivalence decisions easier or, in many cases, unnecessary. Since NVIC 10-81, CH-1 applies only to reflagged vessels between two and ten years old, most future reflag vessels will have been built to the latest amendments to SOLAS 74.

Some specific Coast Guard regulation projects which will incorporate the recent amendments to SOLAS 74 are as follows:

1. *Docket 83-043; Re-assessment of Coast Guard Marine Engineering Regulations—Incorporation of SOLAS 74 Amendments:*
   This project will reassess 46 CFR Subchapter F, and will incorporate the recent amendments to SOLAS 74. This will include steering systems.
2. *Docket 81-030; Vital Systems Automation:*
   This project will develop new regulations that will replace the guidance currently in NVIC 1-69 and 6-84. It will incorporate the latest amendments to SOLAS and lessons learned from casualty data.
3. *Docket 85-063; Miscellaneous Changes to Subchapter J:*
   This project will revise regulations to utilize, as far as practicable, international electrical standards meeting the latest amendments to SOLAS 74.
4. *Docket 83-026: Re-assessment of Coast Guard Fire Protection Regulations, Revision of 46 CFR Subchapters D, H, I, and U to Incorporate SOLAS 74 Amendments:*
   This project includes a reassessment of both the structural fire protection and the fire fighting systems resulting in the revision of 46 CFR Subchapters D, H, I, and U to incorporate the recent amendments to SOLAS 74. These regulations will remain intact for application to existing vessels; however, they will be replaced by a single fire protection subchapter for application to all new vessels.
5. *Docket 84-069; Lifesaving Equipment:*
   This project will completely revise the lifesaving equipment regulations for tank vessels, cargo and miscellaneous vessels, mobile offshore drilling units, nautical school ships, and oceanographic research vessels to incorporate the recent amendments to SOLAS 74. The project will create a new subchapter for all vessels on ocean, coastwise, and Great Lakes routes. This subchapter will also include Dockets 84-069*a* through *j* which are listed below:

   84-069*a*—Immersion Suits
   84-069*b*—Thermal Protective Aids
   84-069*c*—Lifejackets and Lifebuoys
   84-069*d*—Lifeboats and Release Mechanisms
   84-069*e*—Lifeboat/liferaft Provisions
   84-069*f*—Visual Distress Signals
   84-069*g*—Rescue Boats
   84-069*h*—Inflatable Liferafts
   84-069*i*—Hydrostatic Releases
   84-069*j*—Winches and Davits for Lifeboats and Rescue Boats

Another area where improvements in reflagging efficiency will be seen is the formation of the Marine Safety Center. Although the Marine Safety Center was formed primarily as a cost-saving mechanism, this consolidation also offers improvements in efficiency, responsiveness, and consistency in vessel plan review.

The idea of consolidating the field technical offices has been studied in reorganization proposals for many years. Recent budgetary constraints coupled with diminishing workloads initially reduced the number of merchant marine technical (mmt) offices from five to three with the closing of the Fifth District (mmt) and the Ninth District (mmt) in 1981 and 1983, respectively. In the face of a continuing decline in plan review workload and the inherent inefficiency of operating small offices, a major reorganization including the closure of the remaining (mmt) branches was a logical move. Consolidation of these field technical offices was proposed in 1985, when realization of further efficiencies became necessary.

The Marine Safety Center will be an independent Coast Guard Headquarters unit located in the Washington, D.C. area under the technical control of the Chief of the Office of Merchant Marine Safety. Many factors contributed to the selection of Washington D.C. as a location for the Marine Safety Center. Among them were a readily available labor pool of naval architects and marine engineers, easily accessible international and domestic transportation, and a proliferation of naval architectural firms in the area.

The Marine Safety Center will be organized similar to existing mmt offices. There will be a Hull Division (Major Vessel and MODU branches), Engineering Division (Machinery and Electrical branches), and a Cargo Division.

The Marine Safety Center is expected to become operational on July 1, 1986. A plan review transition team is in place at Coast Guard Headquarters and has begun reviewing new submissions. About June 1, 1986, all new submissions and some ongoing plan review will be redirected from the present mmt regional offices in San Francisco, New York, and New Orleans to the transition team to ensure a smooth transfer of workload to the Marine Safety Center. When formally established around July 1, 1986, the MSC will commence plan review activities on a limited basis. As staffing approaches the full complement of personnel, plan review capability will increase toward a return to full capacity. The transfer of all ongoing projects should be complete by August 1, 1986 and the Marine Safety Center fully operational by October 1, 1986. All of the mmt offices should close around August 1, 1986. The centralization of plan review will facilitate reflagging in many ways. Most importantly, it will resolve any concerns about inconsistencies in plan review. In addition, a single office will be better able to develop a consistent database of past equivalency determinations, which will decrease duplication of effort on subsequent reflaggings. Finally, with a larger pool of personnel, the Marine Safety Center will be better able to respond to the compressed time frame of a reflagging by shifting personnel when time constraints make it necessary. The formation of the MSC will increase the efficiency and effectiveness of plan review, not only for reflaggings, but for plan review during new construction, alterations, or repairs. Like all Federal agencies, the Coast Guard will need to continue to deliver services in a cost effective manner, as future budgets will continue to challenge its limited resources.

Table 1 Reflaggings

Current		Former		Type	Length, ft*	Gross Tons	Place Built
Name	Flag	Name(s)	Flag				
1LT Alex Bonnyman O.N.	US	*Emilie Maersk* TAKX Hull 4004	DA	RO/RO			Odense, Denmark
Adabelle Lykes O.N.	US	*Mosel Express*	GE	cargo	639.6	17 107	Vegesack, Germany
Adonis O.N. 653 691	US	*Aikaterini* (others)	GR	tank.	822.0	38 816	Bremerhaven, Germany
American Condor O.N.	US		SW	RO/RO			
American Cormorant O.N.	US	*Ferncarrier* *Kollbris*	NO	HLift	738.0		
American Eagle O.N.	US	*Zenit Eagle* (83)	SW	RO/RO	630.8	15 952	Malmo, Sweden
Arab Hawk O.N.	US	*Finneagle* (82)	LI	barge	127.15		
Arkas O.N.	US	*Suzanne Onstad*	LI	tank.	889.08	68 906	Tamano, Japan
Cape Henry O.N.	US	*Barber Priam*	UK	RO/RO	694.0	21 747	Nagaski, Japan
Cape Hudson O.N.	US	*Barber Taif*	NO	RO/RO	695.6	21 976	Kragero, Norway
Cape Horn O.N.	US	*Barber Tonsberg*	NO	RO/RO	689.0	22 070	Tonsberg, Norway
BMC II O.N.	US	*Goliath 6*	BE	barge	328.08	5 610	Keil, Germany
Bravado O.N.	US	*Bravado*	NO	tank.	304.59	1 999	Fevag, Norway
Breton Seahorse O.N.	US	*M.A. Levy*		OSV	157.33	199	New Orleans, LA
C.E. Thorton O.N.	US	*C.E. Thorton*	PN	MODU	231.0	N/A	Vicksburg, MS
Cape Decision O.N. 684 098	US	*Tombarra*	NO	RO/RO	680.42	13 887	Gothenburg, Sweden
Cape Diamond O.N. 684 097	US	*Tricolor*	NO	RO/RO	680.42	13 874	Dunkirk, France
Cape Domingo O.N. 684 099	US	*Tarago*	NO	RO/RO	680.42	13 874	Dunkirk, France
Cape Douglas O.N. 684 100	US	*Lalandia*	DA	RO/RO	680.42	13 887	Gothenburg, Sweden
Cape Ducato O.N. 684 101	US	*Barranduna*	SW	RO/RO	680.44	13 822	Gothenburg, Sweden
Charlotte Lykes O.N.	US	*Weser Express*	GE	cont.	638.9	17 087	Vegesack, Germany
Constitution O.N.	US	*Oceanic Constitution*	PN	pass.	682.44	20 269	Quincy, MA
Cove Liberty O.N.	US	*Cradle of Liberty*	PN	tank.	825.71	33 596	Kobe, Japan
CPL Louis J. Haugue, Jr O.N. 671 969	US	*Estelle Maersk* TAKX Hull 4015	DA	RO/RO	707.4	38 411	Odense, Denmark
Cygnus O.N. 632 750	US	*Rabenfels*	GE	RO/RO	606.1	13 098	Sasebo, Japan
Dock Express Texas O.N.	US	*Happy Runner*		RO/RO	268.0		
Federal Lakes O.N.	US	*Avon Forest*	UK	RO/RO	663.02	16 382	Port Weller, Canada
Federal Seaway O.N.	US	*Laurentian Forest*	UK	RO/RO	663.02	16 382	Port Weller, Canada
Green Wave O.N.	US	*Woermann Mira*	GE	cont.	507.0		
Independence O.N.	US	*Oceanic Independence*	PN	pass.	650.0	20 269	Quincy, MA
J.W. McLean O.N.	US			MODU	180.0	3 142	Sparrows Pt, MD
Lyra O.N. 632 749	US	*Reichenfels*	GE	RO/RO	603.4	12 160	HDW, Germany
Margaret Lykes O.N.	US	*Elbe Express*	GE	cont.	639.6	17 823	Hamburg, Germany
Marine Princess O.N. 652 421	US	*Kuniang*	PN	cargo	708.5	26 060	Sunderland, England
Marlin 17 O.N.	US	*Wah Hai I*	CH	MODU			Taipang, China
MLC-336 O.N.	US	T0336-2					
Cape Edmont O.N.	US	*Paralla*	SW	RO/RO	606.0	13 355	
PFC James Anderson, Jr O.N. 679 513	US	*Emma Maersk* TAKX Hull 4016	DA	RO/RO	707.4	38 412	Odense, Denmark
PFC William B. Baugh O.N.	US	*Eleo Maersk* TAKX Hull 4003	DA	RO/RO	598.02	21 799	Lindo, Denmark

(continued)

Table 1 (*continued*)

Current		Former					
Name	Flag	Name(s)	Flag	Type	Length, ft*	Gross Tons	Place Built
Point Vail O.N.	US	*Mary Ellen*	JA				
President Eisenhower O.N.	US	*Neptune Jade*	SG	cargo	853.65	35 553	IHI Kure, Japan
President Roosevelt O.N.	US	*Neptune Garnet*	SG	cargo	853.65	35 553	IHI Kure, Japan
PVT Harry Fisher, Jr O.N. 689 591	US	*Evelyn Maersk* TAKX Hull 4017	DA	RO/RO	707.4	38 412	Odense, Denmark
Salernum O.N.	US	*Salernum*	IT	cable	339.6	2 834	
Salla O.N.	US	*Salla*	FN	cargo	522.1	6 766	
Sea Venture O.N.	US	*Hellinic Carrier*	GR	cargo	469.25	5 881	Skaramanga, Greece
Sheldon Lykes O.N.	US	*Alster Express*	GE	cont.	639.5	14 071	Hamburg, Germany
Shiloh O.N.	US	*Spindletop*		barge	352.0	3 143	Alameda, CA
Sucre O.N.	US	*Aristefs* (others)	VN	RO/RO	384.58	3 740	Hamburg, Germany

* 1 ft = 0.3048 m.

Summary

The Coast Guard has provided to the marine industry guidelines for establishing equivalence to U.S. safety requirements when reflagging foreign-flag vessels to U.S. flag. Because these guidelines were published in NVIC form, they were easily updated when changes in the process became necessary. The studies on material equivalence and SOLAS fire extinguishing systems and the recent efforts to incorporate SOLAS 74, as amended, in the guidelines demonstrate the Coast Guard's willingness to facilitate the reflagging process, provided vessel safety is not sacrificed. In the future, the Coast Guard will continue to work with the marine industry to make the reflagging process as smooth as possible while maintaining the historically high safety standards of the U.S. merchant fleet.

The vessel owner or his representative can ensure that his reflagging progresses smoothly by becoming familiar with NVIC 10-81, CH-1 and by preplanning his reflagging. At the minimum, the following items should be completed when the Application for Inspection is submitted to the Coast Guard:

1. All plans, manuals, industrial standards and lists of materials should be translated into English.
2. A "Report of Vessel Deficiencies" should be submitted which lists areas where the vessel does not meet the requirements of NVIC 10-81, CH-1 and discusses how the problem areas will be addressed.

This effort will foster a more meaningful early dialogue with plan review personnel, facilitate the overall plan review process, and significantly reduce the possibility that vessel certification will be delayed.

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TESTIMONY OF CHARLES E. BENNETT
BEFORE THE
SENATE COMMITTEE ON FOREIGN RELATIONS
JUNE 16, 1987

MR. CHAIRMAN, thank you for the opportunity to come before your distinguished Committee. My thinking about the U.S. flagging of Kuwaiti shippping is very similar to that of your own, Senator Pell: that reflagging is not a wise course of action to take at this time. I introduced last week in the House of Representatives a bill almost identical to your bill, S. 1327, which I hope will help us reverse this course before it is too late.

We, of course, have the right to keep the sea lanes open. And we have exercised that right ever since the days of the Barbary pirates. As Chairman of the House Armed Services Subcommittee on Seapower, I have helped in the fight for a strong, 600-ship Navy. I would want to see that navy used to protect U.S. interests anywhere. But this reflagging of Kuwaiti tankers does not add to our power to keep the sea lanes open and serves no good purpose. What does it change?

The change is that we would now have a U.S. flag out there as a target, allowing an enemy to control our national destiny. The names of the tankers would be Americanized from their original Arabic names to "Ocean City," Chesapeake City," "Gas Queen," and so on. If one of these "American" tankers or navy escorts were hit by an Iranian missile or even by a mine or shots from an unmarked fast patrol boat, it would make it almost impossible to prevent a large outcry in this country for revenge, for a military response, that might cause us to enter an undesired war with Iran.

The president apparently reasons that the Iranians would not fire at our ships or the tankers because to do so would be insane. But driving a truck bomb into the Beruit Marine barracks was also insane. And Defense Secretary Weinberger told our Armed Services Committee last week that the Iranian leadership was "a bunch of lunatics." It would probably be only a short time before our ships were hit.

The purpose of this policy seems to be to help the Administration recover from the disgrace of supplying Iran with missiles in exchange for hostages. It seems to be an attempt to bolster the president's credibility, but it might seriously harm America's credibility.

How would we look if our ships were fired upon and we did not belligerently respond? This policy has simply not been well thought out and it should be withdrawn at this time in the face of nearly universal Congressional and allied skepticism.

What we need is an international cooperative effort. The best vehicle for that is the United Nations. I know the UN has weaknesses, but if you have a weak child you don't abandon that child. Instead, you work with that child and help give it strength through proper performance.

It is also vitally important that we start cooperating with the Soviet Union in those areas where we have parallel interests. We can do so here, through the auspices of the UN or bilaterally. We can show the world that the United States stands for peace, for freedom, and for international cooperation. I hope the Committee endorses the bill introduced by Senator Pell and myself.

Reflagging the Kuwaiti ships is an invitation to disaster. It gives our country no new power. It fails to move in the direction of power. It may begin an unwanted war. Clearly reflagging these ships is a mistake.

TESTIMONY OF MICHAEL H. ARMACOST
BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE
Tuesday, June 16, 1987

U.S. Policy in the Gulf and Kuwaiti Reflagging

I. Mr. Chairman, I welcome the opportunity to testify before this distinguished committee on U.S. policy in the Persian Gulf, an area of the world vital to U.S. interests. I want to focus in some detail on the Administration's decision to reflag and protect eleven Kuwaiti oil tankers. There is considerable misunderstanding, and the Administration accepts part of the responsibility for this confusion. We have not always articulated as clearly as we might the distinction between our comprehensive policy to protect all our interests in the Gulf on the one hand, and the specific interests advanced by the decision to reflag a limited number of ships on the other. I hope today to add greater clarity to these important issues.

II. U.S. Interests in the Region

I believe a consensus exists in the Administration, the Congress and the country on the basic U.S. interests in the Persian Gulf region:

-- The unimpeded flow of oil through the Strait of Hormuz is a vital interest and critical to the economic health of the Western world; another very important interest is freedom of navigation for non-belligerent shipping in and through the Gulf in line with our world-wide policy of keeping sea lanes open.

-- The security, stability, and cooperation of the moderate states of the area are important to our political and economic goals; we have a major interest in standing by our friends in the Gulf, both because of their importance in their own right and because of their influence in the Gulf and beyond. At present, that means helping them deal with the threat from Khomeini's Iran.

-- We have an interest in limiting the Soviet Union's influence and presence in the Gulf, an area of great strategic interest to the Soviets because of Western dependency on its oil supplies.

These interests are threatened by the escalation of the Iran-Iraq war. To protect them, we are following a two-track policy: 1) to galvanize greater international pressure to persuade the belligerents to negotiate an end to the conflict and 2) to protect our interests and help protect the security of moderate, friendly Arab states in the Gulf.

III. The Iran-Iraq War

For a number of years the tragic Iran-Iraq war was contained. It wreaked terrible human and material losses on the two nations involved and their citizens, but largely spared others beyond the belligerents' borders.

In 1984, Iraq began to attack tankers carrying Iranian oil through the Gulf. Iraq's intention was clear: to try to recoup on the seas the military momentum it had lost on the ground. With three times the population of Iraq and driven by revolutionary-religious fervor, Iran has great advantage in a land war of attrition. Iraq also viewed the shipping attacks as a way to reduce Iran's oil exports, and thus its revenues for propagating the war; with this action, it hoped to neutralize in part Iran's military success early in the war of closing down Iraqi ports and persuading Syria to shut off the Iraqi-Syrian oil pipeline to the Mediterranean Sea. Unable to export signficant quantities of oil in 1981 and 1982, Iraq has gradually built up new export facilities -- using pipelines in Turkey and also Saudi Arabia. None of its 1.5 mbpd exports transit the Gulf any longer. Thus, unable to hit Iraqi overland exports, Iran retaliated by hitting non-belligerent shipping going to the ports of the moderate Gulf states which support Iraq.

The international community became predictably alarmed in the spring of 1984. The UN Security Council passed a resolution calling for protection of neutral shipping, but it had no enforcement measures. Iran rejected the resolution, and it was filed away. Gradually, however, other producing and consuming nations became less apprehensive as they saw that most ships got through more or less on schedule and that Gulf oil flow was not interrupted. Insurance rates settled down. Tankers and crews were readily available. In short, the world learned to live with the tanker war.

That situation has not yet dramatically changed, although three developments over the past 18 months have caused us concern:

First, the number of attacks on vessels doubled in 1986 over 1985. The trend so far in 1987 has been slightly ahead of the 1986 level. On the other hand, the percentage of ships hit is still very small -- less than one percent of those transitting the Gulf.

Second, in late 1986, Iran acquired Chinese-origin Silkworm anti-ship missiles. It tested one in February. Deployment sites are being constructed along the narrow Strait of Hormuz. These missiles, with warheads three times larger than other Iranian weapons, can range the Strait. They could severely damage or sink a large oil tanker, or perhaps scare shippers from going through the Strait, leading to a de facto closure. We have made clear to Iran, publicly and privately, our concern about these missiles and their threat to the free flow of oil, and urged others to do so as well. A number have. We emphatically want to avoid a confrontation and will not provoke one -- but we are determined to pursue a prudent policy that protects our own interests and those of our friends.

Finally, last September Iran began singling out Kuwaiti-flag vessels and vessels bound to or from Kuwait for attack. At the same time, Iranian inspired groups intensified their efforts at sabotage and terrorism in Kuwait itself, building on their earlier activities that included a bombing attack on the U.S. Embassy in December 1983 and an assassination attempt on the Amir in 1984. Iran's immediate objective was clear -- and publicly stated: to use intimidation to force Kuwait to quit supporting Iraq with financial subventions and permitting goods bound for Iraq to be offloaded at a Kuwaiti port. Iran's longer-term objective is equally clear -- if not publicly articulated: after succeeding in Kuwait, to apply the same policies of intimidation against other Gulf states to change their policies and set the stage for gaining hegemony over the entire area.

It is to frustrate Iranian hegemonic aspirations that the Arab Gulf states continue to support Iraq. It is for similar reasons that other close friends, such as Egypt and Jordan, also assist Iraq--despite their previous difficulties with Baghdad. Iranian hegemony over the Gulf and the spread of Iranian radical fundamentalism beyond Lebanon worries them greatly. They and the Gulf states view Iraq as a buffer that must not be allowed to collapse.

Let us not forget -- the Gulf region sits on 70 percent of the world's oil reserves. It provides 25 percent of the oil moving in world trade today; it will supply a much higher percentage in the future. It is fundamentally counter to U.S. interests for Iran -- with its current policies and anti-American ideology -- to control or have permanent influence over this oil supply, which is critical to the economic well-being of the West. Some of our allies depend today more on this oil than we. But our dependency is growing and will continue to do so. Moreover, a supply disruption, or the threat of one, will sharply raise global oil prices, affecting our economy dearly.

We do not seek confrontation with Iran. We hope over time to improve our relations with that strategically important country. We share many common interests, including opposition to Soviet expansion in Afghanistan and elsewhere. We accept the Iranian revolution as a fact of history. But our bilateral relations will not substantially improve until Iran changes its policies toward the war, terrorism, and subversion of its neighbors. And in the meantime, we will protect our interests.

The Kuwaiti Reflagging: The Administration's Decision

Late last year, to counter Iranian targetting of Kuwaiti-associated shipping, Kuwait approached both the Soviet Union and the United States--as well as others ultimately--to explore ways to protect Kuwaiti-owned oil shipping. The Russians responded promptly and positively. We took more time before agreeing to reflag and protect eleven Kuwaiti ships; we did so only after carefully assessing the benefits and risks, as many in the Congress are doing today. Kuwait expressed its preference to cooperate primarily with the U.S. but insisted on chartering three Soviet tankers as well -- to retain its so-called "balance" in its foreign policy and to engage the military presence of as many permanent members of the Security Council as possible.

Kuwait's request to place ships under the American flag was an unusual step in an unusual situation. Unlike a commercial charter arrangement, these vessels become American ships subject to American laws. Moreover, Kuwait and the other Gulf States view the reflagging as a demonstration of long-term ties with the U.S. -- in contrast to a short-term leasing arrangement with the USSR.

Kuwait -- or any country -- can register its ships under the American flag if it meets normal requirements, or it can charter American-flag vessels if it can work out a commercial arrangement. As a general policy, the U.S. Navy tries to protect U.S. flag ships around the world, and this policy does not discriminate on the basis of how and why ships are flagged. Nevertheless, the Administration carefully considered the Kuwaiti request and reaffirmed as a policy decision to provide the same type of protection for the Kuwaiti re-flagged vessels as that accorded other U.S. flagged vessels operating in the Gulf. Since the tragedy of the USS STARK, we have decided to augment our naval forces, which have been in the Gulf since 1949, to ensure stronger protection for the U.S. flag ships and our military personnel. However, we are talking about only a modest increase in American-flagged vessels operating in the Gulf. We are not entering into an open ended unilateral protection regime of all neutral shipping, nor do we intend to do so.

We have taken these actions to support two important and specific U.S. security interests in the Gulf: first, to help Kuwait counter immediate intimidation and thereby discourage Iran from similiar attempts against the other moderate Gulf states; and second, to limit to the extent possible an increase in Soviet military presence and influence in the Gulf. There is plenty of evidence that the Soviets are eager to exploit the opportunity created by the Iran-Iraq war to insert themselves into the Gulf -- a region in which their presence has traditionally been quite limited. The strategic importance of this region, which is essential to the economic health of the Western world and Japan, is as clear to the Soviets as it is to us. Most governments in the Gulf states regard the USSR and its policies with deep suspicion, and have traditionally denied it any signficant role in the region. However, the continuation and escalation of the war have created opportunities for the Soviets to play on the anxieties of the GCC countries, and to press for increased diplomatic, commercial and military relations. They were prepared to take on much larger responsibilities for protecting the Kuwaiti oil trade than they were ultimately offered; we must assume that they would readily step into our place if we were to withdraw.

Even though Kuwait has chartered three Soviet tankers and the Soviets have said they would protect their ships, we believe the Gulf States, including Kuwait, will not allow Soviet naval vessels to use their ports and facilities. This will significantly limit Soviet long-term ability to maintain or increase its current level of naval involvement in the Gulf. However, if the U.S.S.R. had a much larger role in protecting Gulf oil, these states would be under great pressure to make these facilities available. This was an important consideration in our decision on reflagging.

The Kuwaiti Reflagging: Risks and U.S. Neutrality

What added risks do we incur by reflagging the eleven Kuwaiti vessels? We cannot predict with absolute certainty what the Iranian response will be. Iranian rhetoric is full of menace, but Tehran's conduct has been marked by prudence in the Gulf. Iran has not attacked any U.S. Naval vessel. It has consistently avoided carrying out attacks on commercial ships when U.S. naval vessels have been in the vicinity. In its recent actions it has displayed no interest in provoking incidents at sea. Of course, it would be foolhardy for Iran to attack American flag vessels. They will have American masters; they will carry no contraband; they pose no danger to Iran; they will be defended, if attacked.

Some charge that by supporting Kuwait, the United States assists a so-called "ally" of Iraq and ceases to be neutral in the war. We do not consider Kuwait a belligerent--nor does Iran formally. It is not militarily engaged in the war. We recognize, however, that Kuwait provides financial support for Iraq -- as do many Arab states. Its port, pursuant to a 1972 agreement that long predates the war, is open to cargo bound for Iraq; so are the ports of some other Arab countries. We understand why Kuwait and many Arab nations believe their own security and stability depends on Iraq not collapsing before Iran. We do not wish to see an Iranian victory in that terrible conflict.

Nevertheless, the U.S. remains formally neutral in the war. With one aberration, we have sold weaponry to neither side; we will not sell to either. But we want the war to end -- because of its inherent tragedy and because a major escalation could threaten major U.S. and Western interests. That is why one of the two-tracks of the President's overall Gulf policy today is to seek a prompt end to the Iran-Iraq War with the territorial integrity of both nations intact.

U.S. Efforts for Peace: How are we Promoting our Peace Strategy?

A. The United Nations

Since January, U.S.-spurred diplomatic efforts in the United Nations Security Council have taken on real momentum. We have explored a new approach to halt the conflict. In closed-door meetings among the "Big Five" Permanent Members of the Security Council, the U.S. has vigorously pressed for a Security Council resolution that anticipates mandatory enforcement measures against either belligerent which proves unwilling to abide by a U.N. call for a ceasefire, negotiations, and withdrawal to internationally recognized borders. We perceive a shared concern among all of the Five Permanent Members that this war has gone on too long; its continuation is destabilizing and dangerous. There also appears to be a growing consensus that more assertive and binding international efforts are needed to persuade the parties to end the conflict. Although one might not observe it from the media treatment here, the Venice Summit leaders endorsed a strong statemwnt to this end. This is in many ways a unique effort among the major powers. While success is far from certain, the current UN initiative represents a serious and significant effort to find a negotiated settlement to the war. Since the war began in 1980, there has not been such an auspicious time for concerted and meaningful action. Unfortunately, we still have no indication from Iran that it is interested in negotiatons.

B. OPERATION STAUNCH

At the same time, we are actively working to persuade Iran's leaders of the futility of their pursuit of the war by limiting their ability to buy weapons. This effort--"OPERATION STAUNCH"--is aimed specifically at Iran because that country, unlike Iraq, has rejected all calls for negotiations. STAUNCH entails vigorous diplomatic efforts--through intelligence sharing and strong demarches--to block or complicate Iranian arms resupply efforts on a worldwide basis. The process of closing off arms suppliers to Iran has not yielded swift or dramatic results, but we are firmly committed to the effort and

C. The Venice Summit

Last week President Reagan met in Venice with leaders of Western Nations and Japan. Prior to the Venice meeting we directly approached the Summit participants at a high level to urge greater individual and collective efforts to seek peace and ensure protection of our common interests in the Gulf region. The Gulf situation was a major topic of discussion at Venice. The seven Heads of Government agreed to a positive, substantive statement, urging new and concerted international action to end the war, endorsing strong UNSC action, and declaring that oil flow and other traffic must continue unimpeded through the Strait. We welcome the demonstration of Allied support.

Sharing the Burden for Peace and Security of Western Interests in the Gulf

There is a broad consensus in Western European countries and Japan about the importance of the Gulf. We are working intensively with our allies and with our friends in the Gulf to determine whether and what additional efforts would be appropriate.

Allied efforts can take many and varied forms -- diplomatic initiatives designed to bring about an end to the hostilities, agreements to further monitor and restrict the flow of arms to Iran as the recalcitrant party, financial contributions to regional states and a future international reconstruction fund to help alleviate the economic consequence of the war, and cooperation of naval units present in and near the Gulf. In fact, much is already being done. The British and French have warships in the area to encourage freedom of navigation and assist ships flying their own flags. Two of Kuwait's tankers already sail under British flag. Other maritime countries are considering what they would do if the violence in the Gulf expanded.

On the specific issue of Kuwaiti reflagging, we are not asking our allies to help us protect them. We can--and will--protect these ships that will fly American flags, as we do all U.S. flagged ships. Nor would we expect them to ask us to protect their flagged ships. Should the situation in the Gulf later demand a broad protective regime to keep the sea lanes open, we would expect broad participation, and we would do our part. This Administration, like the previous one, is committed to ensuring the free flow of oil through the Strait of Hormuz.

Our preference would be for a western protective regime since an international regime would provide opportunity for the USSR to try to legitimize a long-term military presence in the Gulf. The best way for the U.S. and USSR to collaborate in our stated common interest to end the war is through the work currently being undertaken in the Security Council. We challenge the Soviets to work with us in this important endeavor.

The GCC states recognize their responsibility for protecting all shipping in their territorial waters. They provide considerable assistance for our naval forces in the Gulf. We may well need further support from the GCC states. While the specifics of such requirements remain under study, we will actively and forthrightly seek such facilitation of our efforts -- which have to be based on cooperation if they are to be successful.

CONCLUSION

In sum then, the U.S. has major -- yes, vital interests -- in the Persian Gulf. Our naval presence over the past forty years is symbolic of the continuity and importance of our interests there. The Iran-Iraq war, if it escalates significantly, could threaten some or all of these interests. That is why the Administration puts great stress on the peace track of its two-track policy approach toward the Gulf. At the same time, we will pursue the second track of protecting our interests in the Gulf -- working as appropriate with our allies and friends in the region. The reflagging of eleven Kuwaiti ships helps advance two specific goals: to limit efforts of both Iran and the Soviet Union to expand their influence in the area -- to our detriment and that of the West. Nevertheless, this new commitment is only a limited expansion of our role in protecting U.S. flag vessels there, which we have been doing since the tanker war began. Our intent with the reflagging is to deter, not to provoke. But no one should doubt our firmness of purpose.

We believe the Congress supports our interests in the Gulf and continued U.S. presence there. I hope I have clarified how the reflagging effort promotes some important U.S. interests and how it is an integral, important part of an overall policy toward the Gulf that protects and advances both fundamental American objectives in the region. We trust the Congress will support our overall policy and this new, important element of that policy.

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Testimony of Walter Berns (John M. Olin University Professor, Georgetown University) on S.1327, A Bill to prevent United States involvement in hostilities in the Persian Gulf; June 16, 1987.

1. I have nothing to say concerning the wisdom of registering vessels owned by Persian Gulf countries or nationals and allowing these vessels to sail under the flag of the United States. My concern here is with the constitutionality and wisdom of the proposed legislation.

2. I object to the statement of purpose in the title of the bill. Of course, we should, if possible, avoid involvement in hostilities (and not only in the Persian Gulf), but the statement, if adopted as policy, would interfere with or infringe the president's constitutional authority to come to the defensive aid of Persian Gulf states if requested by them to do so.

By the Constitution the president is required to "take care that the laws be faithfully executed," and it has long been understood that these laws include "those general laws of nations which govern the intercourse between the United States and foreign nations."* Hence, if he has entered into an agreement to do so, and if it is possible to honor that agreement, the president must come to the assistance of a Persian Gulf state whose freedom of navigation is denied or is threatened; he must do so even at the risk of our becoming involved in hostilities. So it was that on April 9, 1941, President Franklin D. Roosevelt entered into an agreement with Denmark according to which the United States would occupy Greenland in an emergency, and a few months later (July 7, 1941) entered into an agreement with Iceland according to which the United States (taking the place of Great Britain) became responsible for the defense of Iceland. I need hardly point out that with these agreements the possibility of our becoming involved in hostilities was strengthened.

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* Attorney General William Wirt, (1811), 1 Ops. of A.G. 566, 570-71; see also Cunningham v. Neagle, 135 U.S. 1, 64 [1890]. The point was first made by Alexander Hamilton writing as "Pacificus" in 1793.

3. Suppose the United States, instead of registering Kuwaiti ships, entered into an executive agreement with that country to provide a naval escort for those ships. This would certainly increase the risk of becoming actively involved in the hostilities in the Persian Gulf, but I think there is no way, under the Constitution, for the Congress to limit the president's authority to enter such an agreement or, for that matter, to limit his authority so to employ the naval forces. In 1801, President Thomas Jefferson sent a "squadron of frigates into the Mediterranean, with assurances to [Tripoli] of our sincere desire to remain in peace, but with orders to protect our commerce against [a] threatened attack." In fact, the American vessel, Enterprise, initiated an attack on a Tripolitan cruiser, capturing it and killing a large number of its crew. Jefferson had no doubt of his authority to issue those orders, with full knowledge of the possible consequences.*

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* See his message to Congress, December 8, 1801.

The risk of escorting Kuwaiti ships is surely no less than the risk of registering them, and the authority of the president to order the navy to provide the escort being, I would contend, unquestionable, there seems to be little point in a law forbidding the registration.

4. The bill assumes, wrongly I think, that Congress, using its power to "provide and maintain a Navy," or, more generally, its power to appropriate money, may limit the president's authority to enter into executive agreements. Congress may certainly withhold funds from the military; it may withhold funds from a particular military service -- for example, it may refuse to "maintain a Navy," or a particular kind of naval vessel; but, having funded the construction of those naval vessels, Congress may not prescribe how they shall be deployed. It may not do this directly or (using the appropriations power) indirectly. To repeat: If Congress has the authority to tell the president where to deploy the naval forces, it might then forbid their deployment in the Persian Gulf. But it does not have such authority; under the Constitution, that belongs to the president as commander in chief.

5. More generally: currently, there is a good deal of talk about this being a government of laws, and that no one, not even the president, is above the law. True enough. What is not true is that our system, like the British, is one of legislative

supremacy. On the contrary, it is one of constitutional supremacy, which (among other things) means that Congress, too, is not above the law, the law of the Constitution. Or, stated otherwise, it means that both the president and the Congress are capable of breaking the law. With all respect, I think that this bill, S.1327, is in violation of the law of the Constitution.

The Constitution vests the executive power in "a President of the United States of America" -- which is to say, the president gets his powers directly from the Constitution, not, as in a parliamentary system, from the legislative body -- and what is vested is the complete executive power except insofar as the Constitution vests part of it in the Congress. To the Congress is given the power to "declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water," powers, in the Britain from which we declared our independence, exercised by the monarch.

As I said at the beginning, I am not defending the policy of registering Kuwaiti ships; what I am defending is the Constitution of the United States and, under it, the office of the president. The President takes an oath to "preserve, protect and defend the Constitution of the United States," defend it against enemies foreign as well as domestic, and this may require him to do all sorts of things that we would prefer no one to do. For example, under some conditions, his oath may require him to do what the Constitution (in Article I, section 9, no. 7) seemingly forbids, namely, to spend money that has not been appropriated by law; Washington did it, Jefferson did it, and, of course, Lincoln did it. And it was the view of the Founders, or at least of one of the authors of The Federalist Papers, that attempts to restrict the executive power can be, as we say, counterproductive. Here is Federalist 25 on this subject:

> Wise politicians will be cautious about fettering the government with restrictions that cannot be observed, because they knew that every breach of the fundamental laws, though dictated by necessity, impairs that sacred reverence which ought to be maintained in the breast of rulers towards the constitution of a country, and forms a precedent for other breaches where the same plea of necessity does not exist at all, or is less urgent and palpable.

The powers of that office can certainly be abused; the Founders knew that and, in the impeachment provisions, provided a remedy.

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Prepared Statement

for
The Senate Committee on Foreign Relations
Hearings on S.1327

by
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and
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Center for Strategic and International Studies

June 16, 1987

Mr. Chairman:

I welcome the chance to appear before your committee today. In my judgment, few matters in U.S. foreign policy can rival what is happening in the Persian Gulf. I also strongly endorse S.1327, to halt U.S. reflaging of tankers or other vessels belonging to Kuwait or any other Persian Gulf state. You are to be complimented for your wisdom in introducing this legislation.

It is ironic that this issue has come fully before the nation only in the wake of the tragic attack on the USS Stark. The Carter Doctrine, which committed the United States to preserve the security of Gulf countries against outside threats, was set forth more than seven years ago.[1] It has taken the deaths of 37 young Americans to lead us, finally, to debate and discuss America's stakes in the Persian Gulf, threats to them, and the proper course for U.S. policy.

U.S. strategic interests in the Persian Gulf are well known. Let me summarize those that are most germane at the moment.

The Gulf continues to be the world's major reservoir of proved oil reserves. Indeed, although the United States now gets only about six percent of its oil from the Persian Gulf -- 3 percent of its total energy consumption -- our European and Japanese allies are vitally dependent upon this region: about five times and ten times more dependent, respectively, than we are. If Persian Gulf oil were shut in, prices would soar on world markets, the economies of our allies would be severely damaged, and that would have a direct and rapid effect on our own security. And this situation of dependence will continue at least until the early decades of the next century.

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[1] In his 1980 State of the Union address, President Jimmy Carter said that "An attempt by any outside force to gain control of the Persian Gulf region will be regarded as an assault on the vital interests of the United States of America, and such an assault will be repelled by any means necessary, including military force."

At the same time, we have an interest in containing the presence and influence of the Soviet Union. We have only to think of the possible consequences if the Soviets dominated the supply of oil to the West. This would, in their words, represent a critical shift in the East-West correlation of forces. It would be the worst strategic setback for the United States since the early days of the Second World War. In order to understand the gravity of the matter, we do not need to debate the likelihood of active Soviet efforts to achieve this dominance over Western oil supplies. The Soviet Union's invasion of Afghanistan should be sufficient argument for erring on the side of prudence in assessing its intentions toward southwest Asia and the Persian Gulf. This does not mean that the Soviet Union would invade Iran: that, too, seems to be a lesson of Afghanistan. But the Soviets have a 200-year history of attempting to extend political influence and position in the direction of the Gulf, and there is no reason to believe that they have modified this goal.

The United States also has a strategic interest in the future of regional states and in our capacity to have productive relations with them. This is largely an indirect interest, relating to the capacity of these countries to resist Soviet influence, to keep the oil flowing, and to resist and refrain from exporting revolution and turmoil elsewhere in the region and beyond.

As we review these interests, possible threats to them, and the options for U.S. policy, we must understand the complexity of the issues involved. Indeed, few regions in the world, if any, rival the Persian Gulf. U.S. policy must deal, at one and the same time, with the Soviet Union, revolutionary Iran, Gulf Arab states, sometimes-mystifying religious, cultural, and social factors, arms sales to the region, the flow of oil and commercial access, the Arab-Israeli conflict, Western Europe and Japan, the structure of U.S. military forces, the global financial system, and domestic concerns like the price of energy and the value of the dollar. This is no small task for the United States under the best of circumstances.

Clearly, today, we do not have the best of circumstances. Nine years ago, the fall of the Shah of Iran suddenly converted that country from a source of stability in the region to a potential source of instability. In the fall of 1980, during the hostage crisis, Iraq invaded Iran and thus began one of the bloodiest conflicts of modern times.

That war continues and poses the most serious threat to regional stability and to Western interests. It has been clear from the outset that the collapse of either Iraq or Iran would have major consequences for the United States. Nightmare scenarios have been painted for either contingency. In the event of an Iranian military victory over Iraq, it is conceivable that the Iranian revolution would spread widely in the region, that local Arab states would accommodate to Iranian power, and that Islamic fundamentalism would have a serious impact on countries as far away as North Africa. By contrast, the military collapse of Iran could, at the extreme, lead to civil war, the breakup of the country, and Soviet seizure of the northern provinces.

I do not subscribe to the full force of either proposition. Both are likely exaggerated. Yet the fact that both are plausible underscores the importance of getting U.S. policy right, and right the first time. Indeed, while the risks of a U.S.-Soviet nuclear confrontation are now most remote, the Persian Gulf remains the area of the world in which a scenario leading to nuclear war can be most readily constructed. In a word, the Gulf is the most dangerous place on earth.

In recent years, however, we have paid only episodic attention to events in the Persian Gulf. In part, this reflects the difficulty of finding any effective means of moving the Iran-Iraq war from the battlefield to the conference table. That is an important goal, one that is necessary to help create the basis for long-range stability in the region. Yet I would suggest that there are no easy means of bringing peace, nor is the United States particularly well-placed to play an effective role. Nevertheless, we must continue to seek ways to reach this goal and, in the meantime, we must do whatever we can to prevent the war from moving decisively in either direction. Lacking peace, we must ensure that the war is contained.

No doubt, concern about Iraq's capacity to continue defending itself was a major factor in the major tilt toward Iraq that the administration undertook beginning late last year. We do not need to resolve debate about the possible consequences of an Iranian victory to argue that the United States should not be indifferent to its possibility. Yet the methods we choose to help ensure that Iraq can continue to resist are important.

I do not propose, today, to present a comprehensive plan for helping to offset the risk of an Iraqi collapse which, indeed, may be exaggerated. But in my judgment the proposal to reflag 11 Kuwaiti tankers is not an appropriate part of any such plan. Quite simply, it increases the risks that the United States will be seen as, or will in fact become, a belligerent in the Iran-Iraq war. That cannot be in our interest. And it certainly increases the chance that the United States will suffer further casualties in the Persian Gulf, to no good purpose. Protecting 11 tankers would, in fact, be little more than symbolism, given the magnitude of Gulf tanker traffic. But it is a symbol that could easily have deadly consequences for the United States. I will outline the most significant strategic risks later in my testimony.

A second motive for the administration's tilt toward Iraq, and for its decision to reflag the Kuwait tankers, stems from revelations about U.S. covert arms sales to Iran, in violation of U.S. declared policy, purposes, and principles. Given the blow to America's reputation, it is understandable that the administration sought to reassure moderate Arab governments in the Middle East that the United States was not aligning itself with Iran. In fact, revelation of the arms sales was only the most recent event that had diminished Arab confidence in U.S. policy. Other events included the forcing down of an Egyptian airliner following the hijacking of the cruise ship Achille Lauro and the general reluctance of this administration, unlike its predecessors, to take an active and committed role in pursuit of Arab-Israeli peacemaking.

There is, of course, value in the United States' being seen as a reliable friend and partner by countries that are important to us. The administration clearly faced a dilemma after its dealings with Iran came to light. But as difficult as it may be to prove the quality of a relationship, the most effective means is to demonstrate that we have a clear sense of our long-term interests, and that we are prepared to act on them. This can take time, and in the meantime we should resist the temptation for a "quick fix." Going to the point of reflaging the Kuwait tankers is, in my judgment, excessive, in view of the risks that are involved. I know that it is not easy for diplomats to say "no," especially when they feel a need to make amends. But this is just such an instance when "no" is the only answer that comports with U.S. interests in the Persian Gulf.

In deciding to reflag the Kuwait tankers, the administration has a further motive: to counter the influence of the Soviet Union. We are aware of the sequence of events. Kuwait, a nation that has actively supported Iraq in the war to the point of becoming a near-belligerent, has been concerned about Iranian attacks on a few of its oil tankers, in retaliation for Iraqi economic warfare. Kuwait thus sought help from the Soviet Union, which in response has lent Kuwait three tankers. Kuwait next approached the United States for help -- indeed, it is reasonable to conclude that this was Kuwait's primary objective.

It is very much in the U.S. interest to limit Soviet influence in the Persian Gulf region. Yet it is reasonable to ask how much Moscow can gain from its limited relationship with Kuwait. My judgment is that Kuwait and other Gulf Arab states are, and will remain, highly circumspect in their dealings with the Soviet Union. If the United States were not otherwise involved in the Gulf, if we withdrew all of our involvements and announced that we were indifferent to the future of the region, and if we showed ourselves oblivious to our own interests -- then perhaps the Soviet Union's limited increase in its long-standing relationship with Kuwait would have a significant, long-lasting impact. That is not the case, today. We can remain confident that, failing major blunders on the part of the United States, the Gulf Arab states will continue to look first and foremost to us concerning broad aspects of security and diplomatic engagement, and they will continue to keep the Soviet Union at arms length to the extent they are able to do so.

In fact, in responding as it proposes to do to a limited Soviet involvement in the Gulf, the administration is risking a major U.S. strategic setback in the region. This setback could derive from the possibility that Iran will not be deterred, and that it will strike a tanker flying the Stars and Stripes or even a U.S. Navy vessel. Perhaps that will not happen: Iran so far has not attacked any U.S. ships, it has no interest in tangling with the United States, and -- given its need to export oil -- it has a vital interest in keeping the Strait of Hormuz open.

Yet with the administration's proposal to increase the U.S. role in the Gulf, especially one so clearly in support of Iraq's objectives, we are on the verge of assuming the peculiar position of depending upon Iranian forbearance for the success of U.S. policy. In effect, we are about to become hostage, once again, to Iranian behavior -- but this time through our own actions. If Iran does attack a U.S. ship, it is hard to conceive that we will not retaliate. That was a lesson of the attack on the USS Stark. The attacker was an Iraqi aircraft, presumably by accident. Had it been an Iranian aircraft, we would surely have taken military action. The tragedy of the Stark has provided us with a rare opportunity to rethink a questionable policy and to change course before there are even worse consequences.

We must also understand that what the administration proposes to do fits directly within Iraq's strategy. It began the so-called tanker war in 1984, precisely to try provoking the involvement of outside powers to force Iran to the conference table. Since the war began in 1980, there have, by recent count, been 316 attacks on ships in the Persian Gulf. Iraq has been responsible for 225, or 70 percent. Indeed, most Iranian attacks have come in the wake of successful Iraqi economic warfare, especially against Iranian oil installations.

Thus the attack on the Stark was an accident in only one sense. Presumably, Iraq meant to strike an Iranian ship, not an American ship, in order to increase the chances that Iran would, itself, escalate the conflict at sea. By its response, the administration has validated the Iraq strategy. It is putting U.S. vessels in harm's way and risking conflict with Iran.

There may be circumstances under which it will become unavoidable for the United States to take military action against Iran. The United States also has an interest in preserving the flow of oil from the Persian Gulf, if it were seriously threatened, and in maintaining a presence there. At some point, the use of force may become unavoidable. But if we are drawn into battle with Iran -- or with any other state -- we should determine the interests at stake and the conditions under which such action could become necessary. The administration's proposal would put U.S. ships and men at risk for less-than-compelling reasons.

It is not even clear that the central government in Teheran is in full control of all Iranian forces. There are revolutionary organizations that operate with a significant degree of autonomy. And there are elements in Iran that would welcome a U.S. attack on that country, both to provide a new impetus to revolution and to prevent any reconciliation between the two countries for many years to come.

We must take most seriously the likely sequence of events should the United States strike at Iran -- either in response to an Iranian attack or in a preemptive strike against, say, Chinese Silkworm anti-ship missiles reportedly being installed at the Strait of Hormuz. In my judgment, beyond radical elements seeking to prevent any U.S.-Iranian reconciliation, there would be only one winner: the Soviet Union. For Moscow, this would be a godsend. The regime in Teheran would be under great pressure to seek support, if only diplomatic and economic, from a nation that it has, for centuries, tried successfully to resist. In one action, the United States would provide the Soviets with an opportunity they have sought for many years. And no one can doubt that they would take it.

Indeed, we should recall that the United States has not attacked Iran since the revolution, except for the abortive attempt to rescue American hostages when their lives appeared to be threatened. Two U.S. administrations practiced forbearance despite considerable provocation, both during the hostage crisis and in face of Iranian support for terrorism during recent years. In both cases, U.S. forbearance was based in major part on concern about Soviet-Iranian relations and the extent to which the Soviets would respond.

It is difficult to comprehend the calculations that lay behind decisions that now threaten to put the United States in the position of risking, not just further casualties, but its basic strategic position in the Persian Gulf. In order to compete with the Soviets in the limited arena defined by Kuwait and perhaps some other Gulf Arab states, we are about to risk opening the way for major, perhaps decisive, Soviet influence in Iran. Nor can we entirely rule out that the Soviet Union would respond to a major U.S. attack on Iran by itself using military force to seize Iranian territory. That prospect is remote. But it must be considered in any judgment about U.S. military action.

To understand the stakes involved in the Soviet Union's gaining decisive influence in Iran, we have only to review the strategic situation, especially in comparing the significance of Iran and Iraq. Iran has a population of more than 45 million, the second largest capacity in the Gulf to export oil, the world's second largest gas reserves after the Soviet Union, one littoral of the Persian Gulf, and one jaw of the Strait of Hormuz. Moscow understands that Iran is the strategic prize in the Gulf. The Carter administration understood it. And, indeed, for most of its time in office, the Reagan administration has also understood it.

In his address to the nation on November 14, 1986, explaining the sale of arms to Iran, President Reagan made the following critical statement in support of his view that U.S. goals in the region have included helping to "preseve Iran's independence from Soviet domination":

> Iran encompasses some of the most critical geography in the world. It lies between the Soviet Union and access to the warm waters of the Indian Ocean. Geography explains why the Soviet Union has sent an army into Afghanistan to dominate that country and, if they could, Iran and Pakistan. Iran's geography gives it a critical position from which adversaries could interfere with oil flows from the Arab states that border the Persian Gulf. Iran's oil deposits are important to the long-term health of the world economy.

Whatever we may feel about the sale of arms to Iran -- and I believe that it was wrong -- the president was correct in the strategic assessment he presented last November. But in tilting toward Iraq and risking a conflict with Iran, he and his advisers are wrong, now. In such circumstances, the task falls to the Congress of the United States and to this legislation, S.1327, to safeguard the nation's strategic interests.

There is a further way in which the United States now risks playing into the Soviets' hands. This is the suggestion by Soviet spokesmen that the United States and the Soviet Union work together to provide for the security of shipping in the Persian Gulf. There is a superficial attraction in this proposal. There is, indeed, value in talking with the Soviets, especially to ensure that there are no miscalculations. Given the strategic importance of the region and the extent of current turmoil, this is no more than simple prudence.

Yet there is a fine line between talking with the Soviets and cooperating with them. This is not the first time that Moscow has made such a proposal. In 1980, at the height of the hostage crisis, then General Secretary Leonid Brezhnev proposed that the United States and other major states join the Soviet Union in a "doctrine of peace and security" for the Persian Gulf. In its fullest rendering, this proposal would have provided the Soviet Union with joint and shared responsibility for Persian Gulf security. The United States rejected this proposal and prevailed upon its allies to do likewise. The Carter administration judged that, if accepted, it would bring the Soviet Union into the Persian Gulf in a way and to a degree that was not justified by circumstances, and that would in effect make the Soviet Union a co-equal with the United States. It would have been a confession that the United States lacked both the power and the purpose to secure its own regional interests. It would have provided the Soviets with an opening, and legitimacy for engagement, of unprecedented scope and value for its regional ambitions.

In my judgement, the United States should also resist cooperating with the Soviet Union in Persian Gulf security, today. This is especially important in view of the fact that failures of

U.S. policy have done so much to call into question whether the United States has a clear understanding of its interests in the region and the ability to act on them. Working with the Soviets would be a true confession of incapacity and, indeed, almost indifference to the stakes in the region. The message would be loud and clear to all regional states. We must understand that the Soviet Union is not likely to make serious diplomatic inroads in the region if we do not reflag the Kuwaiti tankers. But it will surely gain if we provide the diplomatic underpinnings for a new Soviet role -- and, let us make no mistake, a lasting Soviet role -- in the area.

In the era of General Secretary Mikhail Gorbachev, there is new flexibility in Soviet foreign policy and an uncharacteristic deftness in diplomacy. Soviet ambitions and actions in this instance are not hard to fathom. The Soviet Union apparently calculates that it will gain a small degree of influence and diplomatic advantage if the United States fails to reflag the Kuwait tankers. It will gain more influence and advantage if we recognize its role in the region as co-equal. But it stands to gain decisive advantage should we put ourselves in a position whereby we are led to launch military attacks against Iran. Thus this legislation, S.1327, offers the chance of rescuing the U.S. strategic position in the Persian Gulf from the risks and dangers toward which it is now headed.

Finally, I would like to comment on the second part of S.1327. This proposes United Nations action -- a peacekeeping force -- in regard to Gulf shipping and redoubled efforts to promote peace between Iran and Iraq. I support the basic thrust of this proposal. However, to be practical and to achieve its desired result, I believe that any effort to secure the freedom of shipping in the Persian Gulf must apply to all shipping. In its proposal, the administration would not protect all shipping but only all-but-Iranian. That course, on the face of it, is provocative and risks making the United States a belligerent.

An international effort -- through the United Nations or perhaps coordinated through a Western institution like the International Energy Agency -- would also permit us to separate the goal of preserving freedom for shipping from other motives, such as supporting Iraq or compensating Gulf Arab states for the Iran arms deal. Those secondary considerations can only cloud judgments about U.S. strategic interests.

We must also keep the threat to oil tankers in perspective. Less than 1 percent of traffic is affected, the threat is no greater than it has been during the past three years, and Iraq has been responsible for most attacks. These facts, more than any others, account for the reluctance of our West European and Japanese allies to help. By contrast, in 1984, before the impact of Iraq's tanker war strategy was clear, Britain and France cooperated with the United States in standby naval activity. Indeed, as part of any policy for dealing with the current situation, the United States should approach Iraq, both directly and through states like Saudi Arabia, to ask it to stop its part of the tanker war. The chances would then be good that the threat to tankers would drop radically if not cease altogether.

In sum, the United States is now at a decisive moment in its policy toward the Persian Gulf. Our interests are clear. At some point, more extensive U.S. military engagement and even the use of force may become necessary in support of those interests -- for instance, if there were a serious threat to the export of Persian Gulf oil. Regrettably, the course now being pursued by the administration -- to reflag Kuwait tankers and otherwise to tilt toward Iraq -- does not help to protect those interests. The time for increased U.S. military engagement is not now. Indeed, we are about to run grave risks of a major setback for U.S. interests in the region and in broader East-West relations. I thus strongly endorse S.1327.

Thank you.

Swimming With Sharks

Soviets Hold Ultimate Edge if U.S. Blunders in the Gulf

By ROBERT E. HUNTER

For two centuries, the Russians have tried to extend their influence, if not their empire, to the shores of the Persian Gulf. In the last few weeks, they have come closer than ever before to realizing this dream. U.S. policy is creating the opportunity, and U.S. policy must prevent it.

Opportunity began knocking when Kuwait decided that it needed protection for its oil tankers against Iranian attacks. When the Soviet Union agreed to lend a few of its red-flagged tankers, alarm bells went off in Washington. The Reagan Administration rapidly drew up a plan whereby the United States would re-flag 11 Kuwaiti tankers, thus putting them under protection of the Stars and Stripes.

As we learned with the Iraqi attack on the U.S. Navy's Stark, no one seems to have thought through the risks and possible consequences.

Most important is the risk that Iran will call our bluff. That is not in Iran's natural interest, which is to stay out of a fight with the United States and to keep the oil flowing through the Strait of Hormuz.

Yet it is foolish to assume that Iran will do nothing if it sees the United States defending everyone else's oil, while Iraq continues its attacks on Iranian tankers. Nor is it clear that the government in Tehran can control all military elements within the country. The Revolutionary Guards may have been behind the recent attack on a Soviet tanker in the gulf. No doubt, some Iranians would welcome a U.S. attack on their country to provide a shot in the arm for the revolution and to ensure U.S.-Iranian hostility for years to come.

American anger and frustration with Iran have blurred understanding of its strategic significance and led sensible people to ignore a key strategic tenet: If the United States strikes Iran, the Soviet Union is the winner. Indeed, this tenet was most important in limiting the Carter Administration's actions to the aborted rescue mission in 1980, and it kept the Reagan Administration in check despite Iran's role in terrorism. Unfortunately, U.S. interests in the gulf are on the verge of again becoming hostage to Iranian behavior.

It would take a major U.S.-Iranian military conflict to tempt the Soviets to invade; they have learned that much from Afghanistan. But Tehran's first step after the first bomb fell would surely be to cement its ties to Moscow—for a long time to come. It is no coincidence that the Soviet Union did not retaliate when its tanker was struck. In the Soviet scenario, that part is to be played by the United States.

In the era of Mikhail S. Gorbachev, the Soviets do not rest on self-congratulation over the windfall provided by America's lack of prudence. Moscow has dusted off a proposal made by Leonid I. Brezhnev in 1980, to create joint East-West responsibility for security in the gulf. Wisely, the United States said "no, thanks," back then. This time, the White House chief of staff, Howard Baker, mused that "it would not be a bad thing." At Venice, however, Ronald Reagan squelched that.

It is well that he did, but he and his Administration must also understand the triple threat now posed by the Soviets' diplomacy. They will gain something—but not very much—with gulf Arab states if the United States reneges on its pledge to re-flag Kuwait's tankers and provide escorts. They will gain much more if the United States gives its imprimatur to their presence in the gulf or, worse, recognizes it as of equal weight in regional security. And they will sweep the board if the United States blunders into conflict with Iran.

As icing on the cake, the Soviet Union has announced that it will send no more ships to the gulf. Its limited role has been sufficiently exaggerated by the United States, and its does not want to risk the embarrassment of having another of its ships attacked. As in Central America, Moscow has established a position that is low-cost, low-risk and potentially high-payoff—waiting for a U.S. mistake.

Having dropped the gauntlet, the United States has no easy way out. It can begin by putting the problem in perspective. As the West Europeans and Japanese point out, the threat to tanker traffic is no greater now than it has been during the past three years. And Washington can reduce its rhetoric—the nonsense about the gulf becoming "a Soviet lake," and the threats to attack Iran's new Silkworm missiles at the strait the moment they become operational. Both play the Soviet game.

The United States should also take its stand on the principle of freedom for all shipping, not just non-Iranian. It should call for a halt to the tanker war by Iraq as well as Iran. It should focus its diplomacy within a Western institution, the International Energy Agency, and invite the gulf belligerents to take part.

Finally, the Reagan Administration must recognize that America's friends in the region want to succeed at peace-making and are most fearful of Soviet intervention.

Demonstrating clear awareness of U.S. interests and acting on them is the best recipe for countering Soviet influence. It worked for most of the postwar period. It can work again if we have the wit to pursue it.

Robert E. Hunter is director of European studies at Georgetown University's Center for Strategic and International Studies.

National
Marine Engineers'
Beneficial
Association

Affiliated
with the AFL-CIO

444 North Capitol Street • Suite 800 • Washington D C 20001 • 202-347-8585

June 11, 1987

Honorable Claiborne Pell
Chairman
Committee on Foreign Relations
U.S. Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I want you to know of my strong support for your legislation to prevent the placing of Kuwaiti tankers under the U.S. flag.

Clearly, overall Administration policy has not been well thought out and, as witnessed by the Venice Summit, does not have the strong backing from our friends and allies so fundamental to an effort such as this in what is plainly the most volatile and dangerous area of the world.

However, as President of the largest U.S. maritime officers union, I would like to address the substance of my comments to the re-flagging plan and its impact on the U.S. merchant marine. In this connection, you may be interested in the statement by major U.S. maritime organizations on the proposed re-flagging. A copy is enclosed.

To begin, it should be clear that the re-flagging is completely unnecessary. The same objective, protection of shipping in the Gulf, could be achieved just as well by providing escorts and defense by the United States and other nations to vessels of any flag. I find it to be extremely naive to imagine that the flag and the Master of the vessel will make any difference whatsoever to Iranian fanatics who, after all, have already waged acts against us, such as the Marine barracks bombing in Beirut, that would have been called acts of war in any other time. In fact, the presence of a U.S. flag on a Kuwaiti vessel may actually increase their attractiveness as a target to the Iranians, thus undermining the very objective, safety, that led to the proposal for U.S. re-flagging in the first place.

Second, if one must use the U.S. flag, then the re-flagging plan of the Administration is still seriously flawed from the point of view of the U.S. merchant marine:

- it uses Kuwaiti tankers when there are many U.S.-flag tankers laid up and out of work.
- it evades the merchant marine manning laws which stipulate that all officers and 75 percent or more of the unlicensed crew must be American citizens. Apparently, the Administration is relying on a 1985 Coast Guard interpretation of 46 U.S.C. Sec. 8103 that deals with citizenship and Naval Reserve requirements. In that reading of subsection (e) of Sec. 8103, the Coast Guard decided that if a vessel is deprived for any reason of the services of a U.S. citizen -- except the Master -- while on a foreign voyage, a citizen of another country may serve in that vacancy. In addition, that foreign crew member may remain in that position until the vessel's first return to a U.S. port where an American replacement can be found. The Coast Guard used this interpretation when it ruled that U.S.-flag offshore supply vessels operating in the North Sea could be "deprived" of American crews.
- it also means waiving every U.S. maritime communications, safety, and environmental protection statute on the books.
- it could undermine much of the U.S.-flag fleet by setting a precedent to be exploited by others. For example, U.S.-flag vessels that now operate only between foreign ports could decide to ditch their U.S. crews while still retaining all of the advantages of the U.S. flag, such as the carriage of military, government, and PL 480 cargoes. Creative owners might also decide to operate U.S.-flag vessels with foreign crews out of Canadian ports, a move that could hurt U.S. ports and infrastructure on both coasts. Therefore, long after the ships have been returned to the Kuwaiti registry, the effects could be felt on the American economy and on our military capability. This temporary expedient could cost us dearly in the long run.

- finally, this re-flagging plan could, by accelerating the decline of the U.S. merchant fleet, seriously diminish our nation's sealift capability. This capability is absolutely essential to U.S. power projection and to protection of U.S. interests that are vital by any standard, such as NATO. It is not enough merely to have a U.S. flag vessel in order to have sealift; there must be reliable crews to man these vessels. Recent Navy studies have made clear our present sealift decline is of serious concern to our military. It should be noted that the merchant fleets of many of our Allies have declined rapidly in recent years, largely due to a relentless flagging out. The British fleet alone has dropped from over 50 million tons to less than 15 million tons in just eight years. So we do not have Allied capability to pick up the slack of further U.S.-flag fleet decline.

If re-flagging must be entered into, then at least it should follow established U.S. practice and law fundamental to our merchant marine. As regards this aspect, your Committee may want to investigate the method by which the Soviets are handling Kuwaiti re-flagging. Published reports I have seen indicate that the Soviets are leasing their tonnage, probably with Russian crews as well. We, instead, in this "deal" have allowed the Kuwaitis to set the terms in our apparent haste to beat the Soviets to the punch. That to me is not the behavior typical of a confident, first-rate power.

In short, I believe the plan to re-flag Kuwaiti tankers is ill-conceived and dangerous. I support your efforts to stop this plan, and hope they will succeed before it is underway.

Sincerely yours,

C.E. DeFries

C.E. DeFries
President

CED/kmb
Enclosure

STATEMENT FROM U.S. MARITIME LABOR ORGANIZATIONS ON PROPOSED U.S. REFLAGGING OF KUWAITI TANKERS

U.S. maritime labor organizations representing merchant seamen employed on U.S.-flag vessels in international waterborne commerce recognize the national need to protect the freedom of the seas so that vessels of all nations may transport without interference supplies and commodities vital to their economic and defense security. To that end, the United States has undertaken a leadership role.

However, we believe that the Executive Branch of the U.S. Government has unnecessarily circumvented longstanding maritime law requiring citizenship crewing for U.S.-documented vessels. Customarily, all officers and 75 percent of the unlicensed crew on U.S.-flag vessels must be U.S. citizens. The U.S. Administration in its plan to aid the Kuwaiti government will permit reflagged Kuwaiti vessels to employ all foreign personnel with the exception of the captain, who will be a U.S. citizen. The Administration's plan is apparently based on a provision in law covering citizenship requirements which apply to a U.S. vessel departing from a U.S. port and operating outside the commerce of the United States. If this vessel is deprived of U.S. citizen licensed or unlicensed personnel during its voyage, a foreigner may be employed until said vessel arrives in a port in the United States.

It is our contention that the statutory provision which is involved in this decision is clearly designed to cover an emergency situation where a U.S. citizen crewmember would not be available to fill an open billet overseas. This law should certainly not be distorted to suit a political situation for which other remedies may be available.

We believe that the Administration will have opened the door for potential abuse of well-established maritime law and policy governing documentation and manning requirements for U.S.-flag vessels. The unusual arrangement suggested by the Administration wherein a part or all of the 21 Kuwaiti tanker vessels would be reflagged to enjoy the protection of the U.S. Navy will inevitably transform U.S.-vessel registry to nothing more than a registry of convenience.

We believe that participation under the U.S.-flag should indicate a commitment to the United States since American-flag vessels are considered extensions of U.S. territory. Such a commitment necessarily entails full compliance with the spirit and letter of U.S. laws. Foreign crews and owners of reflagged vessels will have no allegiance to the United States. Instead, they will utilize the U.S. registry temporarily as opportunity and need warrant. This flies in the face of Congressional intent in enacting documentation and manning provisions which require U.S. citizen crews on U.S.-flag vessels. Certainly, Congress did not envision the situation where for all intents and purposes, a foreign-owned and foreign-crewed vessel would be sheltered under the umbrella of the United States flag. Certainly, twisting explicit maritime laws to conform to the needs of a political situation in the Persian Gulf should not be considered a viable solution.

The ramifications of this reflagging proposal could very well be disastrous to the U.S.-flag merchant fleet, as well as the merchant fleets of all traditional maritime nations. Given the inherent dangers implicit in this policy, we believe that it should be scuttled immediately.

Seafarers International Union, AFL-CIO
National Maritime Union, AFL-CIO
National Marine Engineers Beneficial
Association, AFL-CIO

Affiliated with the AFL-CIO

National
Marine Engineers'
Beneficial
Association

444 North Capitol Street • Suite 800 • Washington, D.C. 20001 • 202-347-8585

July 1, 1987

The Honorable Claiborne Pell
Chairman
Committee on Foreign Relations
U.S. Senate
446 Dirkson Building
Washington, D.C. 20510

Dear Mr. Chairman:

On June 16, 1987, while I was testifying at your hearing on S. 1327, you asked me about previous waivers of maritime manning, communications, safety, and environmental laws. You wanted to know how often this waiver authority has been used in the past.

We have checked with the Maritime Administration and the Coast Guard. It is clear that in recent memory permitting non-U.S. crews on U.S.-flag vessels has not been done on the scale underway now. Minor exceptions, such as foreign crewing on crew shuttle boats at Diego Garcia, have been made for national defense reasons, but nothing on the scale of the Kuwaiti tanker re-flagging. The Administration has exploited a loophole in U.S. maritime manning laws, a loophole that we hope will be closed through legislation such as that proposed by Congressman Mario Biaggi (H.R. 2661).

As regards waivers of communications, safety, and environmental standards, we have just received word that the communications waiver has been revoked and that the FCC and the Navy have decided that all re-flagged Kuwaiti vessels will carry a U.S. citizen radio officer. It is, however, fairly routine practice for the Department of Defense to ask for waivers of U.S. safety and environmental standards, particularly in recent years. Generally, however, these are very short term waivers -- often only for a voyage.

C. E. DeFRIES
President

C. E. DODSON
Secretary-Treasurer

R. T. McKAY
Executive Vice President

A. P. SASSO
Vice President

M. H. PELFREY
Vice President

The Honorable Claiborne Pell
PAGE TWO
July 1, 1987

I want to thank you for your attention to the maritime industry as well as the foreign policy implications of the Administration's Kuwaiti tanker re-flagging plan, and for your giving us the opportunity to testify before your Committee. Although it is clear that the Administration has no intention of changing its plans for the 11 tankers in question, I do believe that your efforts and concerns of many other Senators will make them think twice about re-flagging foreign vessels when U.S.-owned and -manned vessels are ready and willing to do the job in the first place.

Again, I thank you and wish to convey that our union continues to stand ready to help you in this effort in any way we can.

Sincerely,

Karl M. Landgrebe
Karl Landgrebe
Special Assistant
to the President

KL/kmb

National Marine Engineers' Beneficial Association

STATEMENT
OF

MR. KARL LANDGREBE
SPECIAL ASSISTANT TO THE PRESIDENT
of the
NATIONAL MARINE ENGINEERS' BENEFICIAL ASSOCIATION

On Behalf Of The

NATIONAL MARINE ENGINEERS' BENEFICIAL ASSOCIATION
And The
NATIONAL MARITIME UNION

Before The

COMMITTEE ON FOREIGN RELATIONS
U.S. SENATE

June 16, 1987

Mr. Chairman, my name is Karl Landgrebe. I am Special Assistant to Gene DeFries, the President of the National Marine Engineers' Beneficial Association. Mr. DeFries wanted very much to appear before this Committee, but unfortunately he had to be out of town today.

I am pleased to be able to present the views of the Marine Engineers' Beneficial Association, the National Maritime Union, and the AFL-CIO Maritime Committee on the Administration's plan to re-flag Kuwaiti oil tankers.

In this connection, I would respectfully request that the Chairman include, as part of the hearing record, letters sent to you from the President of the National Maritime Union, Shannon Wall, and from my President, Gene DeFries. I would also request that you include in the record, the joint statement by our two unions and the Seafarers International Union. Together, we represent more than 40,000 U.S. merchant mariners. We are united in our opposition to this Administration's plans to re-flag the Kuwaiti tankers. I should note, as well, that the International Transport Workers Federation, representing some eight million workers in 58 countries, strongly opposes the U.S. re-flagging plan.

Mr. Chairman, in the interest of time and in view of the fact that the letters of our Presidents to you cover the issue in detail, I will just briefly summarize our views.

First, we believe that this re-flagging plan is symptomatic of an overall policy in this region that has not been well thought out and that clearly does not have our Allies' strong backing.

Second, we support your efforts to put a stop to this Administration's current Kuwaiti tanker re-flagging plan and your efforts to determine the Administration's legal justification for the re-flagging. This is extremely important to our industry and we thank you.

Third, we believe that this re-flagging is totally unnecessary, since the same objective -- protection of merchant shipping in the Gulf -- could be achieved by providing escorts and defense to vessels of any flag. Indeed, given who we are dealing with in this area, flying the U.S. flag actually may make a merchant vessel more attractive as a target.

Fourth, the Administration plan for re-flagging is seriously flawed from the point of view of the U.S. merchant marine. It uses Kuwaiti tankers when many U.S.-flag vessels are laid up for lack of work. It evades or waives U.S. maritime manning, communications, safety, and environmental laws. In the words of NMU President Shannon Wall, it makes a farce of "our U.S. ownership, manning, construction and safety standards." It undermines the U.S.-flag fleet by setting a precedent that others could exploit, by operating, for example, U.S.-flag vessels with foreign crews out of Canadian ports. This development would seriously hurt many U.S. ports on all coasts as well as our own shipping industry. And finally, this re-flagging plan could seriously diminish our nation's sealift capability -- in manning and in vessels, both of which are essential national defense assets.

Fifth, if re-flagging must be done, then at least it should follow established U.S. maritime practices and laws. If foreign interests wish to enjoy all of the rights and privileges accorded U.S.-flag vessels, then they should be required to fulfill all normal requirements. The present plan is turning the American ship registry into a mockery. I should note that the Soviets are reported to be leasing their own vessels, probably with Russian crews as well. I would hope that the Committee will pursue further this Soviet aspect of the re-flagging question.

Mr. Chairman, on behalf of our unions and their Presidents, I thank you for this opportunity to testify before the Committee. I would be happy to answer any questions.

The Seafarers International Union
OF NORTH AMERICA • AFL-CIO
5201 Auth Way, Camp Springs, Maryland 20746
301-899-0675

FRANK DROZAK
President

STATEMENT
OF
FRANK DROZAK, PRESIDENT
SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO
BEFORE THE
FOREIGN RELATIONS COMMITTEE
U.S. SENATE
JUNE 16, 1987

Mr. Chairman and Members of the Committee:

My name is Frank Drozak. I am President of the Seafarers International Union of North America (SIU), AFL-CIO, which represents unlicensed seamen employed on vessels engaged in this nation's domestic and international shipping trades. We wish to thank you for the opportunity to present our views on the Administration's plan to reflag Kuwaiti tankers to the U.S.-flag and appreciate your considering the interests of the maritime industry. While we do not propose to address this issue on a foreign policy basis as we believe that the Congress and the Administration are better prepared to do so, we do feel qualified to discuss the merits of this scheme as it affects long-established national maritime policy.

The Administration in permitting these vessels to be reflagged under the United States-flag intends to circumvent or waive longstanding maritime laws concerning the operation of U.S.-flag vessels. National maritime policy requires that on U.S.-flag vessels that at least 75 percent of the unlicensed crew be American citizens on each departure from U.S. ports. The Administration's action is apparently based on a provision in the law covering citizenship requirements on U.S.-flag vessels which provides that after leaving a U.S. port an American-flag vessel operating outside the commerce of the United States can replace a U.S. citizen crew member if the operator is "deprived" of United

States citizen personnel. This exception to the rule is more than 100 years old and was clearly designed to cover an emergency situation where a United States crew member would not be physically able to meet the vessel for a limited period of time -- the time it would take for a replacement U.S. citizen crewmember to travel from the U.S. to the foreign destination where the U.S.-vessel is located. This general and temporary exception to the citizenship rules is little used in today's world where the movement of a seaman from a point in the U.S. to a foreign destination via air transportation is generally done in less than 24 hours. The Administration has contended that since these tankers will not technically be "departing" from a U.S. port, the vessel owners are not required to use an American citizen crew, other than the master. Clearly, such an interpretation is not in keeping with the spirit or the purposes of the citizenship requirements for American-flag vessels, requirements which were enacted to provide a merchant fleet with trained U.S. civilian crews to serve the nation in time of war or national emergency. In addition to waiving maritime policy with regard to the crew complement, the Administration has requested, and received, waivers for various safety and inspection requirements for the Kuwaiti vessels in order to make them eligible to fly the American flag.

As you know, the U.S. merchant fleet and the trained mariners that serve aboard commercial vessels are an invaluable asset to this country. In past emergencies and in other conflicts, the merchant marine has responded to the nation's call and provided the logistical support needed for America's national defense. Today, military planners continue to rely on the commercial merchant fleet to provide the strategic sealift they will need in a crisis.

In assuring that the fleet is able to provide the support that the nation may need in an emergency, merchant vessels on a routine basis maintain close working relationships with Naval vessels. Private merchant vessels engage in numerous military exercises. Many private U.S.-flag vessels are chartered to the Military Sealift Command, where the crews participate regularly in military operations. Under these conditions, both the operators and the crews gain the needed experience to work safely and efficiently with military vessels. In addition to this experience, seafaring unions, including the SIU, maintain regular training programs for mariners that are coordinated with the United States Navy.

The training and close working relationship with the Navy maintained by U.S. vessel operators and seafaring labor unions assures the availability of private merchant vessels to transport cargo in time of crisis and under adverse conditions. This training and experience helps to minimize the risk of harm to the private merchant vessel, its crew or any Naval vessels and their crews that may be serving as escorts.

The SIU believes, therefore, that using foreign crewmen aboard U.S.-flag vessels, without the experience or training that American seamen receive, poses unnecessary dangers. To reduce that danger, the SIU urges that U.S. citizen crews be utilized aboard any of the reflagged Kuwaiti tankers. SIU members, as well as members of other unions, have sailed under similarly dangerous conditions, and know that they are the best group to serve the national interest in this region. I would also like to point out that members of this union have already expressed to me a willingness and desire to serve on these vessels or any American-flag vessel in the Persian Gulf. It is clear that because of the willingness and availability of Americans to serve aboard these tankers, this situation does not and should not require the United States to waive or circumvent the requirements for U.S. citizen manning.

The SIU further believes that reflagging of Kuwaiti vessels to the U.S.-flag is unnecessary at this time as there is a surplus of available tonnage able to transport crude oil from Kuwait. Presently, nearly forty tankers in the U.S.-flag fleet are without work and in lay up and would therefore be available to transport this valuable cargo. Sadly though, operators of U.S.-flag vessels both actively employed and in lay up have told me that they have offered their services to Kuwait and the Administration and been refused. Since there are a number of idle available U.S-flag tankers, the Kuwaiti vessels should not be allowed to become U.S.-flag vessels for this emergency situation unless they can comply fully with all U.S. laws.

Participation under the U.S.-flag should indicate a commitment to the United States, since American-flag vessels are considered an extension of U.S. territory. Such a commitment necessarily entails full compliance with the spirit and the letter of the law. Foreign crews and owners of reflagged vessels have no allegiance to the United States; instead, they will utilize the U.S. registry temporarily as opportunity and needs warrant. Certainly, in enacting the laws pertaining to vessel documentation and manning, Congress did not envision the situation where foreign-owned and foreign-crewed vessels, through the formation of a paper company, would enjoy the benefits associated with flying the United States flag. Twisting explicit maritime laws to conform to the needs of the political situation in the Persian Gulf needlessly creates additional dangers.

Allowing Kuwaiti-owned vessels to reflag without fully complying with U.S. laws likewise greatly reduces the value of sailing under the American flag. U.S.-flag carriers have established a reputation as efficient and safe carriers operating under the most stringent standards in the world. A waiver of these standards, such as in this case, can only result in serious damage to the U.S.-flag fleet.

In conclusion, I would like to point out that the proposed Administration plan, and its blatant disregard of established maritime policy, is not required by the situation presently existing in the Persian Gulf. There are trained American citizens who are eager and willing to serve the national interest in this region, and there are vessels in the U.S.-flag fleet available to transport the Kuwaiti oil. If it is in the national interest to have U.S.-flag vessels transporting oil under U.S. Navy escort, then those vessels should not only be U.S.-flag vessels but also U.S. owned and U.S. crewed. They should not be Kuwaiti vessels that are under the U.S.-flag for the sole purpose of gaining protection from the United States Navy, and most likely will never repay the Navy by transporting military supplies during an emergency involving the United States. Yes, the Soviet Union is helping Kuwait in a similar fashion, but there is one important difference. The Soviet agreement with Kuwait calls for the charter of Soviet-owned, flagged and crewed vessels for its transport needs.

STATEMENT
BY
THE HONORABLE CASPAR W. WEINBERGER
SECRETARY OF DEFENSE

THE DETAILS OF THE U.S. MILITARY ACTION IN THE GULF ON MONDAY, OCTOBER 19, 1987, HAVE BEEN REPORTED EXTENSIVELY IN THE MEDIA AND FORMALLY COMMUNICATED BY THE PRESIDENT TO THE CONGRESS.

AS I STATED IN A NEWS BRIEFING MONDAY MORNING, UNITS OF THE JOINT TASK FORCE MIDDLE EAST SUCCESSFULLY DESTROYED THE IRANIAN PLATFORM COMPLEX RASHADAT IN THE ROSTAM OIL FIELD IN THE CENTRAL PERSIAN GULF. THE ACTION WAS ORDERED BY THE PRESIDENT AS COMMANDER IN CHIEF AS AN APPROPRIATE AND MEASURED RESPONSE TO THE PREVIOUS WEEK'S IRANIAN SILKWORM ATTACK ON A U.S.-FLAGGED TANKER ENGAGED IN PEACEFUL, NON-BELLIGERENT COMMERCE WHILE IN THE TERRITORIAL WATERS OF KUWAIT.

THE PLATFORM WHICH WE DESTROYED HAD BEEN USED BY THE IRANIAN REVOLUTIONARY GUARD TO CONDUCT RADAR SURVEILLANCE, TO REPORT ON U.S. CONVOY MOVEMENTS, TO LAUNCH SMALL BOAT ATTACKS AGAINST NON-BELLIGERENT SHIPPING, TO LAUNCH MINELAYING OPERATIONS, AND TO FIRE AT U.S. MILITARY HELICOPTERS. IT WAS A STRATEGIC MILITARY TARGET LOCATED ON THE MAJOR SEA LANES. IT WAS NOT AN ECONOMIC TARGET SINCE IT HAD NOT BEEN ENGAGED IN OIL PRODUCTION FOR SOME TIME. DESTRUCTION OF THE PLATFORM HAS MATERIALLY REDUCED THE RISKS TO OUR SHIPS AND SAILORS IN THE GULF, INDEED, IT HAS MADE THE REGION SAFER FOR ALL SHIPPING.

IN ORDER TO MINIMIZE LOSS OF LIFE, THE IRANIAN FORCES ONBOARD THE PLATFORM WERE GIVEN A TWENTY-MINUTE WARNING OF OUR INTENTIONS, WHICH THEY APPARENTLY UNDERSTOOD AND HEEDED. WE OBSERVED A NUMBER OF THEM FLEEING THE PLATFORM. SEARCH AND RESCUE OPERATIONS WERE CONDUCTED AFTER THE CONCLUSION OF THE SHELLING, AND NO IRANIAN PERSONNEL WERE FOUND EITHER ON THE PLATFORM OR IN THE SURROUNDING WATER. THERE WERE NO AMERICAN CASUALTIES, AND OUR SHIPS DID NOT COME UNDER FIRE. THE MISSION WAS CARRIED OUT IN A HIGHLY PROFESSIONAL MANNER WITH GREAT PRECISION AND ACCOMPLISHED EVERYTHING IT WAS INTENDED TO DO.

AS THE ADMINISTRATION HAS INDICATED ON NUMEROUS OCCASIONS SINCE MONDAY, WE CONSIDER THIS INCIDENT CLOSED. IT WAS A SPECIFIC RESPONSE TO A SPECIFIC PROVOCATION AND WAS INTENDED TO DEMONSTRATE FORCEFULLY TO IRAN THAT ITS IRRESPONSIBLE, ILLEGAL BEHAVIOR IN ATTACKING NON-BELLIGERENT MERCHANTS ENGAGED IN INNOCENT COMMERCE WILL NOT GO UNPUNISHED.

THERE HAS BEEN CONSIDERABLE SPECULATION ABOUT THE NATURE OF THE MILITARY RESPONSE CHOSEN BY THE PRESIDENT. THERE WERE, OF COURSE, A NUMBER OF OPTIONS AVAILABLE TO US. THE DECISION TO REMOVE THE IRANIAN PLATFORM AND ITS CAPABILITY TO CONTRIBUTE TO HOSTILE ACTIVITIES DIRECTED AGAINST INNOCENT SHIPPING WAS MEASURED AND APPROPRIATE TO THE PROVOCATION. IT SHOULD NOT BE CHARACTERIZED AS "HARD" OR "SOFT" OR ANYTHING ELSE. IRAN AND

THE WORLD SHOULD HAVE NO DOUBT OF THE U.S. CAPABILITY TO TAKE HARSHER MEASURES SHOULD THE SITUATION WARRANT.

WHETHER OR NOT THERE ARE FURTHER ACTIONS OF THIS SORT IS ENTIRELY UP TO TEHRAN. THE UNITED STATES IS NOT AT WAR WITH IRAN, AND WE HAVE NO DESIRE FOR CONFRONTATION OR TO PROVOKE HOSTILE ACTION. WE HAVE CLEARLY DEMONSTRATED THAT THEIR BEHAVIOR CANNOT CONTINUE WITHOUT PAYING A VERY REAL AND PAINFUL PRICE. WHILE THE IRANIAN LEADERSHIP IS FANATICAL, THEY ARE NOT IRRATIONAL, AND THEY DO WEIGH COSTS AND MAKE CHOICES. OUR OVERALL STRATEGY IN THE GULF FROM THE BEGINNING HAS BEEN AND REMAINS BASED ON THE THEORY OF DETERRENCE. OUR MILITARY FORCES IN THE GULF ARE PRESENT BOTH TO PROTECT U.S.-FLAG SHIPPING AND TO BE ABLE TO RETALIATE IF DETERRENCE FAILS. THE FORMS OF VIOLENCE THAT IRAN HAS CHOSEN TO EMPLOY TO DATE, SUCH AS SILKWORM MISSILES, NAVAL MINES AND TERRORIST ACTIVITY, DO NOT UNDERCUT OUR STRATEGY. THE SILKWORM ATTACK ON A U.S.-FLAG VESSEL WHILE IN KUWAIT'S TERRITORIAL WATERS, WHERE PROTECTION RESPONSIBILITY LIES WITH THE KUWAITI GOVERNMENT, RATHER THAN IN THE INTERNATIONAL SEA LANES, WAS PROBABLY INTENDED TO CREATE A SENSE OF UNCERTAINTY IN OUR DECISION-MAKING. IT SHOULD NOW BE CRYSTAL CLEAR TO THE IRANIANS THAT SUCH AN ILLEGAL AND UNPROVOKED ACTION AGAINST OUR SHIPPING, NO MATTER WHERE IT OCCURS, WILL NOT GO UNANSWERED.

THE SPECIFIC MILITARY ACTION TAKEN LAST MONDAY WAS CONDUCTED ONLY AFTER FULLY INFORMING THE CONGRESSIONAL LEADERSHIP, AS IS

PROPER IN SUCH SITUATIONS. INDEED, WE HAVE CONTINUED TO CONSULT CLOSELY WITH THE CONGRESS ON OUR GULF STRATEGY SINCE EARLY IN THE YEAR. THROUGH MY REPORT TO THE CONGRESS ON SECURITY ARRANGEMENTS IN THE PERSIAN GULF LAST JUNE AND THE EXTENSIVE COMMITTEE HEARINGS AND BRIEFINGS AT WHICH I AND OTHER SENIOR ADMINISTRATION OFFICIALS HAVE PARTICIPATED, WE HAVE SOUGHT TO KEEP THE CONGRESS FULLY INFORMED ON EVENTS IN THE GULF AS OUR OPERATIONS IN THE GULF EVOLVED. EVEN DURING YOUR AUGUST RECESS WE KEPT UP THESE EXCHANGES BY TELEPHONE. WITHOUT GOING INTO EXTENSIVE OPERATIONAL DETAIL, WHICH WE ARE LOATHE TO DO PUBLICLY FOR OBVIOUS REASONS, I WOULD LIKE TO TAKE THIS OPPORTUNITY TO DESCRIBE SOME OF THE CHANGES THAT HAVE TAKEN PLACE IN OUR FORCE STRUCTURE IN THE GULF SINCE EARLY SUMMER AND THE BEGINNING OF OUR ESCORTING PROGRAM IN JULY.

OUR INITIAL JUDGMENT WAS THAT MIDEASTFOR, COMPOSED OF THE FLAGSHIP LASALLE AND FIVE COMBATANTS, WOULD BE ADEQUATE FOR THE BASIC ESCORT REGIME IF AUGMENTED BY THREE ADDITIONAL WARSHIPS. THIS WAS DONE PRIOR TO THE FIRST CONVOY TRANSIT. MIDEASTFOR COMBATANTS ARE ALL EQUIPPED WITH SURFACE-TO-AIR MISSILES AND CLOSE-IN DEFENSE WEAPONS. THE NEED FOR INCREASED AIR SURVEILLANCE DURING TRANSIT OPERATIONS IN THE LOWER GULF RESULTED IN THE ROYAL SAUDI AIR FORCE'S ESTABLISHMENT, AT OUR REQUEST, OF A NEW AWACS ORBIT TO SUPPLEMENT THE ONGOING USAF ELF ONE AWACS PATROL IN THE NORTHERN GULF. THE SAUDI ARABIAN GOVERNMENT COMMITTED TO PROVIDING FIGHTER AIR SUPPORT FOR ITS OWN SOUTHERN AWACS ORBIT AS WELL AS FOR THE USAF AWACS. AIR

COVER FOR THE TANKER CONVOYS THEMSELVES WAS JUDGED NECESSARY ONLY DURING TRANSIT OF THE SILKWORM THREAT AREA IN THE STRAIT OF HORMUZ AND IS PROVIDED BY CARRIER-BASED AIRCRAFT FROM THE CARRIER BATTLE GROUP IN THE GULF OF OMAN.

AS THE THREAT TO OUR FORCES IN THE GULF CHANGED AND OUR APPRECIATION OF THE ENVIRONMENT GREW, U.S. FORCE LEVELS WERE ADJUSTED ACCORDINGLY. THE BRIDGETON MINE INCIDENT DURING THE FIRST ESCORT TRANSIT ON 24 JULY, HIGHLIGHTED ATTENTION ON IRAN'S ABILITY AND WILLINGNESS TO SPREAD RANDOM THREATS TO SHIPPING IN INTERNATIONAL SEA LANES. PRUDENCE DICTATED ENHANCEMENT OF THE U.S. FORCE STRUCTURE. INITIAL REACTION INCLUDED DEPLOYMENT OF AN AIRBORNE MINE COUNTERMEASURE HELICOPTER SQUADRON AND A SUPPORT SHIP, USS GUADALCANAL (LPH-7), FROM WHICH THEY OPERATE. KUWAITI-OWNED TUGS WERE PRESSED INTO SERVICE TO CONDUCT MINESWEEPING OPERATIONS IN FRONT OF TANKER CONVOYS. WE RAPIDLY DEPLOYED MINESWEEPING BOATS ABOARD USS RALEIGH (LPD-1) TO PROVIDE ORGANIC SURFACE COUNTERMINE CAPABILITY UNTIL OCEANGOING MINESWEEPERS (MSOS) COULD REACH THE REGION.

THE IRANIAN HIGH-SPEED BOAT THREAT AND OTHER UNCONVENTIONAL ACTIVITY STIMULATED DEPLOYMENT OF FAST PATROL BOATS OF SEVERAL VARIETIES. SUPPORT REQUIREMENTS AND THE OPERATIONAL NECESSITY FOR MOBILITY HAS CREATED UNIQUE RESPONSES TO THE GULF ENVIRONMENT. FURTHER, THE USS MISSOURI BATTLESHIP BATTLE GROUP IS DEPLOYED IN THE NORTH ARABIAN SEA FOR SUPPORT AND DETERRENCE, AS IS THE USS RANGER CARRIER BATTLE GROUP WHICH ALSO PROVIDES AIR COVER.

WE HAVE COMMUNICATED REPEATEDLY TO BOTH IRAN AND THE SOVIET UNION THAT WE FULLY INTEND TO REDUCE THE LEVEL OF OUR DEPLOYMENT AS THE THREAT RECEDES. WE ARE NOT, HOWEVER, CONTEMPLATING "WITHDRAWAL" FROM THE GULF. U.S. NATIONAL INTERESTS IN THE GULF WHICH REQUIRE OUR CONTINUED MILITARY PRESENCE ARE LONG-TERM AND COMPELLING. THE U.S. NAVY HAS BEEN IN THE GULF SINCE 1949. THERE IS, I BELIEVE, A STRONG CONSENSUS ON THE NATURE AND IMPORTANCE OF THESE INTERESTS -- IN THE ADMINISTRATION, THE CONGRESS, AND THE PUBLIC AT LARGE.

OUR GULF POLICY HAS BEEN CRITICIZED BY SOME WHO HAVE SAID IT IS UNCLEAR, THAT IT IS TOO OPEN-ENDED, THAT THERE IS NO MEANS BY WHICH TO MEASURE ITS SUCCESS. THERE HAVE EVEN BEEN ATTEMPTS TO USE MY OWN WORDS AS A YARDSTICK BY WHICH TO MEASURE THE PERCEIVED DEFICIENCIES IN OUR GULF POLICY. WE UNDERTOOK OUR EXPANDED SECURITY ARRANGEMENTS IN THE GULF WITH FOUR OBJECTIVES WHICH I BELIEVE ARE QUITE CLEAR:

- MAINTAIN FREEDOM OF NAVIGATION FOR U.S.-FLAG VESSELS;

- PRESERVE FREE WORLD ACCESS TO THE OIL RESOURCES OF THE REGION;

- PROMOTE THE SECURITY AND STABILITY OF THE MODERATE GULF ARAB REGIMES IN THE FACE OF IRANIAN INTIMIDATION AND PREVENT THE SPREAD OF IRANIAN RADICALISM;

- LIMIT THE EXPANSION OF SOVIET INFLUENCE IN THE REGION.

WE CAN CLEARLY COUNT "VICTORIES" WITH REGARD TO THE FIRST TWO OBJECTIVES EVERY TIME A TANKER CONVOY SAFELY TRANSITS THE GULF. THE SECURITY AND STABILITY OF OUR FRIENDS IN THE REGION, THE MEMBER STATES OF THE GULF COOPERATION COUNCIL (GCC) ARE HARDER TO MEASURE, BUT IT IS CLEAR FROM THEIR PUBLIC AND PRIVATE STATEMENTS THAT THEY HAVE BEEN GREATLY REASSURED BY OUR ACTIONS IN THE GULF, BOTH BY THE INITIAL POLICY ANNOUNCEMENT AND BY SUBSEQUENT ACTIONS WE HAVE TAKEN IN RESPONSE TO IRANIAN PROVOCATIONS. THEIR SELF-CONFIDENCE IS CLEARLY DEMONSTRATED BY THE MANY MEASURES OF PRACTICAL SUPPORT WHICH THEY HAVE AND ARE PROVIDING FOR OUR MILITARY FORCES. ALLIED SUPPORT AND PARTICIPATION IS ANOTHER INDICATION OF THE BASIC SOUNDNESS OF OUR GULF POLICY. FINALLY, WE HAVE SUCCEEDED ON THE LAST OBJECTIVE ALSO, THAT OF LIMITING THE SPREAD OF SOVIET INFLUENCE IN THE REGION, AN AREA IN WHICH THEY HAVE NO VITAL INTERESTS OTHER THAN TO DENY US OURS. THE SOVIETS HAVE NOT BEEN GRANTED ACCESS TO FACILITIES ANYWHERE IN THE REGION OTHER THAN IN COUNTRIES THAT ALREADY HAD A STRONG MARXIST SLANT, WHILE WE AND THE WESTERN ALLIES ARE ABLE TO SUSTAIN VERY CONSIDERABLE FORCE LEVELS WITH THE SUPPORT OF HOST NATIONS IN THE AREA.

I SHOULD ALSO SAY A FEW WORDS ABOUT A VERY BASIC QUESTION THAT WE HAVE HEARD ASKED ABOUT OUR GULF POLICY, A QUESTION THAT DISTURBS ME BECAUSE OF THE LACK OF UNDERTANDING IT IMPLIES. THE QUESTION IS: "WHY IS THE UNITED STATES IN THE GULF AT ALL?" I HAVE AGAIN TODAY REITERATED OUR BASIC FOUR OBJECTIVES. THE ISSUE DOES NOT REVOLVE AROUND THE PERCENTAGE OF OIL THE U.S. OR OUR ALLIES TAKE OUT OF THE GULF, OR HOW MUCH OF THE OIL GOES OUT THROUGH PIPELINES, OR HOW MANY TANKERS HAVE BEEN ATTACKED. THE REAL QUESTION IS ONE OF LEADERSHIP: WHETHER THE UNITED STATES WISHES TO CONTINUE TO SERVE AS THE LEADER OF THE FREE WORLD AND TO EXERCISE ITS RESPONSIBILITIES AS THAT LEADER. AS IN ANY ENDEAVOR, LEADERSHIP CARRIES RESPONSIBILITIES, AND THOSE RESPONSIBIITIES CARRY COSTS. WE UNDERSTOOD FROM THE BEGINNING THAT OUR TASK IN THE GULF WAS NOT RISK-FREE, AND WE HAVE TAKEN PRUDENT STEPS TO MINIMIZE THOSE RISKS.

NONE OF THIS DISCUSSION OF OUR SECURITY ARRANGEMENTS IN THE GULF SHOULD BE ALLOWED TO OVERSHADOW THE ROOT CAUSE OF INSTABILITY IN THE REGION, THE IRAN-IRAQ WAR ITSELF. OUR COMMITMENT IN THE GULF IS NOT OPEN-ENDED, EXCEPT INSOFAR AS IRAN REMAINS INTRANSIGENT IN ACCEPTING THE PROVISIONS OF U.N. SECURITY COUNCIL RESOLUTION 598 AND HOSTILITIES CONTINUE. WHILE MUCH ATTENTION HAS FOCUSED ON OUR MILITARY INITIATIVES IN THE GULF, IT MUST BE KEPT IN MIND THAT THE U.S. WAS THE DRIVING FORCE BEHIND THE UNANIMOUS PASSAGE OF THAT HISTORIC U.N. MEASURE. WE BELIEVE IT IS AS CRITICALLY IMPORTANT TO PURSUE THIS DIPLOMATIC INITIATIVE TO ENSURE COMPLIANCE WITH RESOLUTION

598, IF NECESSARY BY ENACTING A FOLLOW-ON RESOLUTION THAT IMPOSES SANCTIONS AGAINST THE INTRANSIGENT PARTY - IRAN. ONLY IF IRAN IF FORCED TO ACCEPT THAT IT CANNOT WIN ITS WAR WITH IRAQ, WHICH HAS ACCEPTED 598 IN TOTO, CAN PEACE AND STABILITY RETURN TO THE REGION. THEN THE U.S. WILL BE ABLE TO RETURN SAFELY TO PEACETIME FORCE LEVELS IN THE GULF.

A Report to the Congress on

Security Arrangements in the Persian Gulf

Secretary of Defense
Caspar W. Weinberger

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EMBARGOED UNTIL RELEASED

VERSION CURRENT AS OF: 0830 hours, 15 June 1987

SECURITY ARRANGEMENTS IN THE PERSIAN GULF

EXECUTIVE SUMMARY

Protecting eleven Kuwaiti ships under U.S. flag is not part of an open-ended unilateral American commitment to defend all non-belligerent shipping in the Persian Gulf. It is a limited but effective signal of our determination to stand up to intimidation, to support our friends, and to help contain, and eventually end, the Iran-Iraq war.

It is a fact of life that western economies are heavily dependent on oil for their survival and a further fact that seventy percent (70%) of the world's proven oil reserves are in the Gulf region. Our ability to continue to develop economically and to maintain the way of life we are accustomed to depends on our unimpeded access to this oil. Most importantly, and often overlooked, is the fact that the world oil market is one market. If supply is disrupted anywhere, prices rise for ALL consumers and ALL world economies are adversely affected. For example, as a result of the Iranian revolution and Iraq's attack on Iran, international fear that these developments would disrupt oil supplies sent the price of a barrel of oil from $13 to $31. In short, our vital national interests are at stake in the Gulf. The Soviets, in contrast, do not have a vital economic interest in that region because they are a net exporter of oil. Their objective in the Gulf is to establish a presence that ultimately enables them to manipulate the movement of Persian Gulf oil. For these reasons, the United States must be present, vigilant, and resolute in the Gulf.

Important U.S. objectives in the Gulf, endorsed for over four decades by eight U.S. Presidents, both Democratic and Republican, include: denying Soviet access/influence in the region which would threaten free world access to regional oil resources; stability and security of the Gulf states which is critical to insure Free World access to oil; and access to Gulf oil resources, the disruption of which would seriously affect the Free World oil market. Today, those interests are in danger as the continued expansion of the Iran-Iraq war creates opportunities for the Soviets to expand their influence at our expense, increases the threat of Iranian hegemony over the Gulf Arab states, and endangers freedom of navigation for non-belligerent shipping and the free flow of oil.

1979-80 saw the first serious threat to U.S. interests in the Gulf since the late forties with the Iranian revolution, the Soviet invasion of Afghanistan, and the outbreak of the Iran/Iraq war. Since then, we have faced additional serious challenges, including: Iranian intransigence in ending the war;

Iranian determination to export its Islamic fundamentalism "from Tehran to Jerusalem"; continued Iranian intimidation of the smaller Gulf countries, in particular Kuwait, through attacks on shipping and territory; consistent Iranian support for and use of international terrorism; Iranian preparations to deploy SILKWORM missiles to threaten non-belligerent shipping and the free flow of oil through the Strait of Hormuz; and Soviet efforts to exploit regional tensions to increase their military presence and political stature in the area.

To counter those threats and safeguard our interests, President Reagan has approved a strategy which has at its focal point a major international diplomatic effort to end the Iran-Iraq war, preserving the independence and territorial integrity of both belligerents. Action by the UNSC is an important element in this effort; Operation Staunch is another. Cooperation from our allies and key Arab League states is essential for eventual success.

At the same time, we are continuing our longstanding support for the security of our friends in the region to foreclose opportunities for greater Soviet influence; to help the Gulf Cooperation Council (GCC) states stand firm in the face of Iranian intimidation; and to maintain access to oil. U.S. security assistance to the GCC states and our military presence in the region are the most important elements in this effort, which includes protection of a limited number of Kuwaiti tankers under U.S. flag. Here, again, cooperation from our friends is important.

As the result of the Iraqi decision in 1984 to carry the war to Iran's oil export operations, Iraq attacked Iranian-flag, Iranian-leased, and other vessels in the Gulf. Iran reacted by attacking non-belligerent shipping indiscrimately. Last September, Iran began deliberately targeting Kuwait, both its territory and Kuwaiti-related shipping, in part because of Kuwaiti logistical and financial support for Iraq in the war. Iran has refused to end the war except on its own terms. Such continued aggression by Iran, if left unchecked, seriously threatens U.S. interests in the Gulf and the rights of non-belligerents. Thus, in March 1987, the U.S. agreed in principle to Kuwait's decision to reflag eleven of its tankers and agreed to provide them protection in the Persian Gulf, consistent with U.S. policy and interests in the region. U.S. Navy ships assigned to the U.S. Middle East Force (MIDEASTFOR) in the Persian Gulf will provide protection for these eleven tankers, as the Navy does for all U.S.-flagged commercial vessels, to deter hostile acts, and if necessary, to defend the tankers. Since the U.S. Navy's beginning, one of its key missions has been the protection of U.S.-flag vessels anywhere in the world. These tankers will carry no contraband or other cargo for or from Iraq.

The Kuwaiti tankers will be reflagged in compliance with U.S. domestic and international legal standards. U.S. ownership, manning, safety, and inspection requirements will establish effective American jurisdiction over the vessels. At international law, their authentic U.S. nationality will not be subject to question by belligerent or other states.

Our reflagging arrangement with Kuwait is a limited response to a very real threat. Should Kuwait or the other Arab Gulf states be left without support in the face of Iranian intimidation, Iran's ability to gain effective dominance over navigation and energy resources in the entire Gulf would increase significantly. Moreover, should we not be responsive to Kuwait's request for help, the Soviets will be quick to supplant us, thereby positioning themselves to become the protector of the Gulf.

For both these reasons, the GCC states have supported our offer to help Kuwait and have been more willing than heretofore to support one another and work with us. Given the stakes and the consequences, a retreat by the United States now would have a profoundly negative effect, raising basic questions in the minds of the GCC states about the character of our commitments and sending a signal to the Iranians and Soviets that our interests in the Gulf must no longer be vital.

The risks to U.S. naval forces in the Gulf from these threats are low. The risks involved in protecting U.S.-flagged vessels are moderate. The protection plan, which calls for the U.S. Navy to escort U.S.-flag vessels, and the military resources we have deployed to implement this plan were determined by the level of threat such shipping faces. We intend to augment our current MIDEASTFOR presence with three additional combatants, configured to meet potential sea, air and land-based missiles threats. These forces will be sufficient to do the job and minimize risks. There are some risks, particularly from unconventional threats, such as Iranian terrorism or sabotage.

The Rules of Engagement (ROE) applicable to U.S. naval and air operations in the Persian Gulf are designed to ensure that our forces will act effectively to defend both themselves and U.S.-flag merchant vessels under their protection. International law recognizes an inherent right to employ proportional force as necessary in self-defense; this right will be exercised in the face of attack or hostile intent indicating imminent attack.

In proceeding with implementation of the protection plan for reflagged Kuwaiti tankers, the President has emphasized from the outset the need for careful military planning and preparation; adequate cooperation from the allies and the GCC states; and full consultations with the Congress. The GCC states are already providing political support plus access to important facilities; we are in the process of quietly discussing with them what more they might do. The allies voiced strong support at Venice for an urgent, concerted, diplomatic effort to end the war. We are also consulting them quietly on what tangible contributions each might make to deter hostile forces in the Gulf.

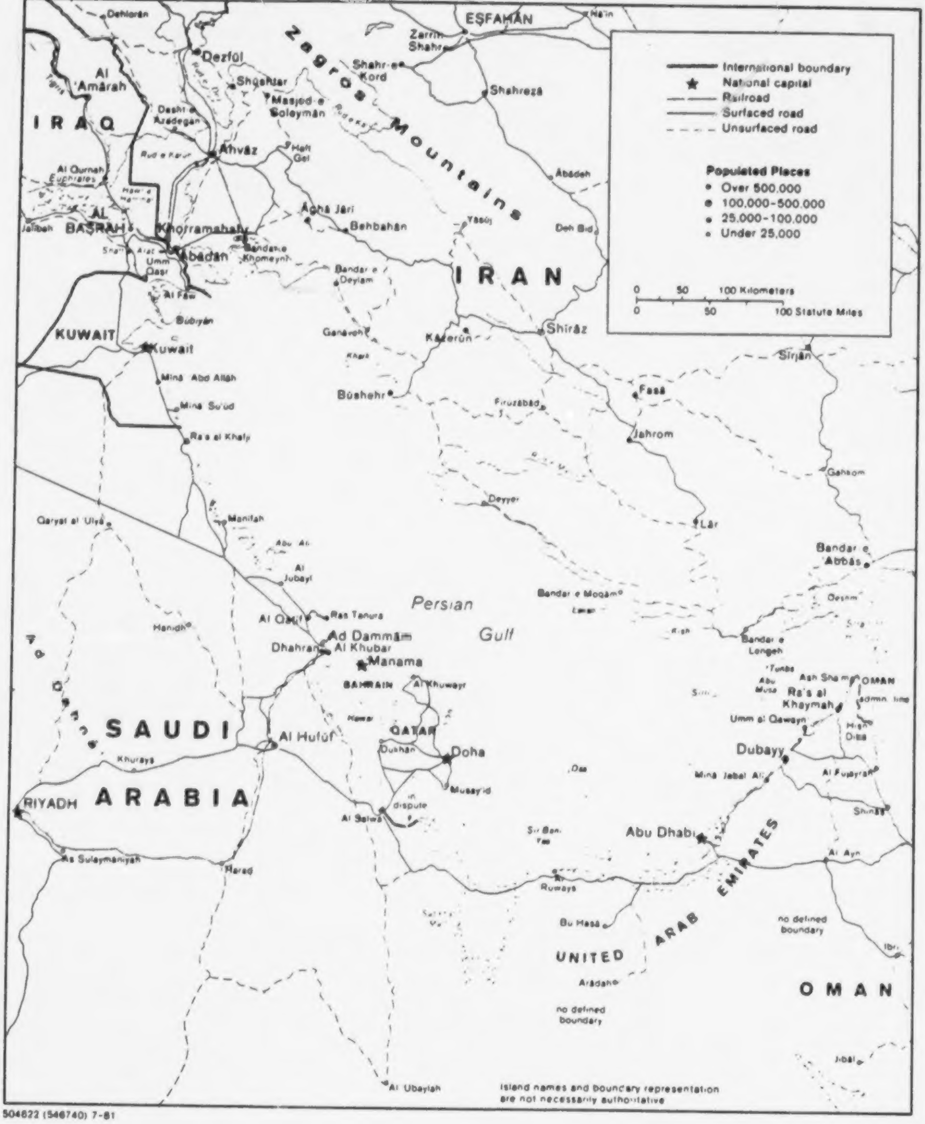
Another critical element of U.S. deterrent strategy in the region includes helping regional states acquire the capability to deter, and if necessary, defend themselves against external aggression, specifically Iranian threats and intimidation. For this reason, the Administration places an extremely high value on its security assistance relationships, including arms sales, with the moderate Arab Gulf states, and in particular Saudi Arabia. Following this year's submission of the Javits Report, and with the acquiescence of Congress, this Administration offered to sell Saudi Arabia a number of items including helicopters and electronic countermeasure systems. Other defensive items, such as Maverick missiles and attrition F-15 aircraft, also are important to bolster Saudi defense to thwart outside intervention. These arms will in no way affect the overall regional military balance, and will have no impact whatsoever on Israel's security. Recognizing the key role Saudi Arabia plays in regional security, U.S. willingness to help the Saudis meet their legitimate defense needs sends a very strong signal, both to our friends and others, of the level of U.S. commitment and resolve to protect our interests in the region.

We understand the risks involved in our strategy, particularly the protection of shipping arrangement with Kuwait. But we are convinced that the risks of alternative courses of action or inaction are even greater -- with Iran stepping up its intimidation of the GCC states, conducting attacks on non-belligerent shipping, and possibly feeling emboldened to use the SILKWORM missile following its successful test-firing last February, and the Soviets exploiting Arab anxieties. The inadvertent attack on the USS STARK last month also has heightened perceptions that the situation in the Gulf is more dangerous now than before the incident occurred. In addition, it has raised the public profile of our military presence in the Gulf and, coupled with the ongoing debate about U.S. protection for Kuwaiti tankers, has led to an increase in vituperative Iranian rhetoric. There is no risk-free way to safeguard our longstanding vital interests in the Persian Gulf, which today is an increasingly volatile region. We can only do our best to minimize and manage the risks, chart a steady course aimed at our strategic goal of ending the war, and reassure our friends -- and our adversaries -- of our resolve as we move ahead.

As the leader of the Free World, we must bear in mind that the United States has certain privileges as well as responsibilities. The missions we have accepted, the protection of U.S.-flag tankers as well as keeping the Strait of Hormuz open for unimpeded access to oil, are declared U.S. objectives.

US-flag ships have received U.S. protection since the beginning of the U.S. Navy and will continue to have this protection as long as they fly the U.S. flag. U.S. interests, whether they are U.S. ships, facilities or personnel will continue to be protected by U.S. forces in this region or elsewhere in the world, wherever they are threatened. This is our responsibility and obligation as the leader of the Free World, a role we cannot shirk, unless we are prepared to suffer the consequences.

Persian Gulf Region


International boundary
National capital
Railroad
Surfaced road
Unsurfaced road
Populated Places
Over 500,000
100,000-500,000
25,000-100,000
Under 25,000
0 50 100 Kilometers
0 50 100 Statute Miles
IRAQ
IRAN
KUWAIT
SAUDI ARABIA
QATAR
BAHRAIN
UNITED ARAB EMIRATES
OMAN
Zagros Mountains
Persian Gulf
Ad Dahna
ESFAHAN
Dezful
Al 'Amarah
Shushtar
Masjed-e Soleyman
Shahr-e Kord
Shahreza
Ahvaz
Haft Gel
Al Qurnah
Euphrates
AL BASRAH
Khorramshahr
Abadan
Umm Qasr
Al Faw
Bandar-e Khomeyni
Agha Jari
Behbahan
Yasuj
Abadeh
Deh Bid
Bandar-e Deylam
Ganaveh
Kazerun
Shiraz
Sirjan
Kuwait
Mina Abd Allah
Mina Su'ud
Ra's al Khafji
Bushehr
Firuzabad
Fasa
Jahrom
Gahkom
Deyyer
Lar
Bandar-e Abbas
Qaryat al Ulya
Manifah
Abu Ali
Al Jubayl
Bandar-e Moqam
Qeshm
Al Qatif
Ras Tanura
Ad Dammam
Dhahran
Al Khubar
Manama
Hanidh
Bandar-e Lengeh
Tunbs
Abu Musa
Ash Sha'm
Ra's al Khaymah
Umm al Qaywayn
Dubayy
Al Khuwayr
Hawar
Dukhan
Doha
Mussay'id
Al Hufuf
Khurays
RIYADH
Al Salwa
in dispute
Mina Jabal Ali
Al Fujayrah
Abu Dhabi
Sir Bani Yas
Das
Ruways
Al Ayn
As Sulaymaniyah
Harad
Bu Hasa
Aradah
no defined boundary
Ibri
Jibal
Al Ubaylah
Island names and boundary representation are not necessarily authoritative

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I. U.S. INTERESTS: OVERVIEW

Background of U.S. Role and Policy

U.S. policy in the Persian Gulf reflects longstanding American strategic, political, and economic interests in the area. Our policy has been consistent and is calculated to defend and advance critical U.S. interests, as well as those of our allies and friends in the region. There has long been a mutuality and overlap of such interests, and this fact has enabled the United States, our western allies, and friendly Gulf states to pursue parallel policy lines.

For nearly forty years, the U.S. naval presence in the Persian Gulf has been symbolic of the continuity and importance of U.S. interests there. Our military posture is defensive in nature and deterrent in purpose. Our presence began in 1949 with the establishment of the Middle East Force (MIDEASTFOR), whose home port was the British naval base at Jufair, Bahrain. Even at this early date, the United States sought to impede Soviet advances in the region, including successful efforts shortly after World War II to bring about the withdrawal of Soviet forces from Iran. After World War II, Britain began gradually withdrawing from its positions east of the Suez Canal and, in 1971, completed its withdrawal from the Gulf. The United States, although largely preoccupied in Vietnam, maintained its Gulf naval presence with the active encouragement of the Gulf states, including Iran, then ruled by the Shah.

Recent American policy in the Gulf can be divided into two periods: 1971 - 1979 and 1979 to the present. From 1971 - 79, the "Twin Pillars" policy followed by Presidents Nixon, Ford, and Carter promoted and assisted the military development of our two closest friends in the region, Iran and Saudi Arabia, in order to promote regional stability.

In 1979, two key events challenged that policy. First, the fall of the Shah's government and its replacement by a radical, revolutionary, Islamic regime threatened to destabilize the Gulf. Second was the Soviet invasion of Afghanistan. The United States reviewed and reevaluated its strategy in the region. The result, the "Carter Doctrine," signaled an increased U.S. resolve to defend Western interests in the Gulf, unilaterally if necessary. We established the Rapid Deployment Joint Task Force (which later became the U.S. Central Command or CENTCOM) and continued our security assistance program with Saudi Arabia and other friendly Arab Gulf states.

At the core of our present concerns in the Gulf is the seemingly endless Iran-Iraq war. Now well into its seventh year, the war's continuation creates an unstable military and political environment in which anxieties run high, violence escalates and expands, and threats to U.S. interests persist.

Our position on this conflict is clear: we are neutral and we support the independence and territorial integrity of both belligerents. We have supported every effort to obtain a negotiated end to the war, one which maintains the sovereignty and territorial integrity of both sides. We are pursuing active efforts in the U.N. Security Council to this end. With one aberration, we have prohibited the sale of military equipment to both belligerents. Through Operation Staunch we have tried to lead Iran towards the bargaining table by making it difficult for Iran to obtain arms and spare parts from third countries. Finally, we have supported the security of non-belligerent Gulf states, primarily the members of the Gulf Cooperation Council (GCC) (Kuwait, Saudi Arabia, Bahrain, Qatar, the United Arab Emirates, and Oman) through security assistance (cash sales) and other measures, such as the pending reflagging of Kuwaiti tankers.

U.S. Interests in the Region

There is no basic dispute about American interests in the Persian Gulf. This area is vital to the United States for three reasons:

- Because of western dependence on Gulf oil, we have a significant interest in limiting the Soviet Union's influence in the region, which is also an area of great strategic interest to the Soviets because of its enormous economic potential and its location near Soviet borders (and Afghanistan).

- The security and stability of the moderate states of the area are important to our political and economic goals; we have a major interest in standing by our friends in the Gulf, because of their importance in their own right, because of their influence in the Gulf and beyond, and because of the profoundly negative impact in the Gulf and elsewhere of a U.S. withdrawal or refusal to meet its commitments any longer.

- The unimpeded flow of oil through the Gulf is critical to economic health of the western world, and we have an important stake in non-belligerent freedom of navigation there; we have a vital economic stake in seeing that this supply of oil continues, given Western reliance upon Gulf oil imports, the overwhelming proportion of world oil reserves held by the Gulf countries, and the deep and growing interdependence of Western economies.

U.S. Strategic Interests

Since the Gulf is a region of vital economic importance to the Free World and a potential chokepoint for vital sea transport, we have a strategic interest in ensuring that it does not come under the domination or hegemony of a power hostile to the United States, to our western allies, or our friends in the region. Should this occur, a hostile power would be positioned to move against other regional countries, e.g., Egypt, Jordan, Israel, and Turkey. Since the region is adjacent to the Soviet Union and without a major military power which can counter the Soviets, it is clearly vulnerable to Soviet meddling.

We do not want the Soviet Union either to control directly or to increase its influence over the region. We have already seen evidence, including Afghanistan, that the Soviets are eager to exploit the opportunity created by the Iran-Iraq war and the perception of faltering U.S. interest to insert themselves into the Gulf -- a region in which their presence has traditionally been limited and marginal. The Persian Gulf has long been a strategic objective of the Soviet Union. In recent years the importance of this region to the economic health of the West and Japan, as well as its tremendous potential for the Soviet economy, has made it even more desirable. Most of the governments of the Gulf states, however, have regarded the Soviets and their policies with deep suspicion, denying them any significant role in the region. During the past four years, however, the Soviets have skillfully exploited opportunities to play on the anxieties of these moderate states and to press for increased diplomatic, commercial, and military relations. They have steadily pursued an irresponsible campaign of propaganda, contending that the United States seeks only to establish a permanent military presence in the Gulf, creating doubts about our commitment to the stability of the regional states and about our objectives in the region.

The United States recognizes the Iranian revolution as a fact of history. Iran's size, its influence in the region, and its proximity to the Soviet Union and the Persian Gulf make it an important state with which the United States would like to normalize relations over time. Many of Iran's present policies are inimicable to U.S. interests. Therefore, we will not be able to improve relations until Iran changes both its policies and its practices on the war, its support for acts of international terrorism, including hostage taking, and its continuing attempts to intimidate and subvert neighboring states.

Iran's expansionism is another danger. Iran will constitute a strategic problem for the United States as long as the Iranian revolution continues its extremist course. Iran seeks to eliminate superpower presence in the area and to export its radical revolution to the moderate Arab governments of the Gulf. The effects of either Soviet or Iranian hegemony in the Gulf would be a strategic setback to U.S. and Western interests. Because most of the states of the Gulf welcome and look toward an American presence and security commitment, we have the ability to blunt both Soviet and Iranian threats to our interests. In the long run, Iran may find it in its interest to seek a modus vivendi with its Gulf neighbors and the United States. A firm but unprovocative U.S. policy could encourage an Iranian reevaluation of its foreign policy.

U.S. Political Interests

The security and stability of the moderate Arab Gulf states is directly threatened by both the war between Iraq and Iran and by the radicalism which characterizes the Iranian revolution. The Iranians have made no secret of the fact that they consider the moderate states of the Gulf illegitimate. This is not limited to the Gulf region alone. Iranian efforts in southern Lebanon, as well as Iranian sponsorship of terrorism, continue to demonstrate Iran's short-term goals: to destabilize Israel and Lebanon. In the longer term, Egypt and Jordan, as well as the Gulf Arab states, are considered appropriate targets for destabilization and creation of Islamic fundamentalist governments.

Iran works against these states both with direct pressure -- as Kuwait has received for the past year -- and with internal destabilization, which is a more sophisticated and long-term effort. Each state has to deal alone with the latter challenge to its internal security and ultimate survival. However, we -- and our western friends -- can and must help deal with the former. Moderate states must have the wherewithal to deter and deflect any consideration being given to a direct confrontation. An example of our ongoing commitment to this purpose is our security assistance program and sale of arms to the moderate Arab Gulf states. Such routine sales are basic threads in the overall fabric of our bilateral relationships. A number of proposed arms sales to the moderate Arab states of the Gulf were included in this year's "Javits Report." The Congress properly permitted the Administration to proceed with issuing an export license for the commercial sale of Bradley Fighting Vehicles to Saudi Arabia and Foreign Military Sales offers of F-16 aircraft to Bahrain, plus helicopters and electronic countermeasure systems to Saudi Arabia. The sale of improved Maverick missiles to Saudi Arabia, in addition to other defensive systems on which the Administration has consulted the Congress, such as attrition/replacement F-15s and M60 tank upgrade kits, is a part of this strategy. They meet a legitimate defense need. They do not materially affect the overall military balance in the region. They do help bolster the Saudis and send a signal of our continued commitment to the Kingdom. If we are to assist our friends in the area to provide for their own defense and to resist Iranian threats and intimidation, we must be able to provide these kinds of arms transfers. Barring such sales -- as the Congress has effectively done in past years on proposed sales of additional F-15s and Stinger missiles to Saudi Arabia -- will have the unintended effect of increasing the USSR's and Iran's leverage in the region, particularly as it will raise questions about the nature of U.S. commitments. Further, this Administration has not and will not consider any arms sale request which impacts negatively on the security of Israel.

The United States seeks to promote peace and stability in the Gulf. We have longstanding, friendly relations and share mutual interests with the moderate Arab Gulf states, which, because of their great wealth and oil reserves, are influential both within and beyond the region. Wealthy but militarily weak and subject to subversion, these states formed the Gulf Cooperation Council (GCC), partially in order to bolster their own defenses in the wake of the Iran-Iraq war. U.S. political interests center on supporting the Arab Gulf states in their security efforts, especially with regard to Iranian expansionism.

The current debate in the wake of the accidental but tragic attack on the USS STARK has focused attention on U.S. policies in this key region of the world. We must remember that our longstanding and publicly supported interests in the Gulf have not changed, and remain vital, not only to the United States, but also to most of the Free World.

U.S. Economic Interests

American business interests have long been established in the Gulf region. The Arabian-American oil company (ARAMCO), established in the 1930's in Saudi Arabia, began large-scale production after World War II. Similarly, oil production began in Bahrain in 1934, in Kuwait and Qatar in the 1940's, and in the United Arab Emirates (then the Trucial States) and Oman in the 1960s and 1970s. U.S. and other Western companies played a large role in the development of these oil systems as well as infrastructure construction and other projects associated with economic development that grew out of the Gulf's oil earnings. Today, the Gulf region provides a $7 billion market for U.S. primary and manufactured goods.

The Middle East oil crises of 1973 and 1978-79 were economic disasters for the United States and our allies. As the 1973-74 and 1978-79 oil shocks showed, an oil supply disruption can trigger a sharp escalation in oil prices. In the first oil crisis, the cost of oil quadrupled; in the second, it more than doubled. Since the world oil market is one market, when supplies are disrupted, prices rise for all oil consumers regardless of a particular country's source of supply or import levels at the time. The principal economic impacts of disruptions then result from the economy's inability to adjust instantaneously to this large increase in price for a major input -- causing inflation, unemployment, and recession.

The United States and our allies remain substantially dependent on oil imports, much of which currently come from the Gulf. The Gulf countries supply over 25 percent of all oil moving in world trade today. Over 17 percent of the West's oil consumption comes through the Strait of Hormuz. The West's dependence on Gulf oil is expected to increase over time because Gulf nations possess 63 percent of the Free World's oil reserves, and Gulf reserves are low cost to produce.

In 1986, about 30 percent of OECD Europe's oil consumption came from the Persian Gulf; the comparable figure for Japan was about 60 percent. This Western dependency is expected to increase as non-Gulf reserves are depleted. Likewise, while only six percent of U.S. oil consumption originated in the Persian Gulf in 1986, this level is expected to rise significantly in the future as our own reserves decline and our consumption increases (the recent DOE Energy Security Study projects that total U.S. imports could double to 8-10 million barrels per day by the mid-1990's). Finally, over 70 percent of current Free World excess oil production capacity resides in the Gulf and the West's vulnerability to oil disruptions in the Gulf will increase as non-Gulf excess production capacity shrinks.

As President Reagan recently noted: "...I think everyone...can remember the woeful impact of the Middle East oil crisis of a few years ago -- the endless, demoralizing gas lines, the shortages, the rationing, the enormous dislocation that shook our economy to its foundations." The potential for a similar crisis exists today and in the near future. Given our growing economic relationship with Gulf nations through trade in oil and non-oil products and services, we have a vital and unquestionable economic stake in ensuring that we have unimpeded access to and from the Gulf, both now and in the future.

II. CURRENT POLITICAL/DIPLOMATIC THREATS TO U.S. INTERESTS

Continued Expansion of the Iran-Iraq War

While it is true that oil transit and prices have not yet been significantly affected, the continuation of the Iran-Iraq war directly endangers freedom of navigation for non-belligerents and the access to oil. The "tanker war" involves Iraqi attacks against ships serving Iranian ports and oil loading facilities and ships within the exclusionary war zone as declared by Iraq. While Iraqi attacks have been on shipping serving a belligerent, Iranian retaliatory attacks have been against a wide range of third country neutral shipping serving non-belligerent Arab Gulf ports in international waters. This differing pattern reflects, in part, the reality that there no longer is shipping - neutral or otherwise - serving Iraqi Gulf ports. Those ports and oil facilities were rendered useless by Iran in the early days of the war.

Since September, 1986, Iran has deliberately targeted shipping serving Kuwaiti ports in large measure to intimidate Kuwait from its logistical and financial support for Iraq, as well as to enhance its influence over the other GCC states by threatening similar action. The tanker attacks were matched by other elements of Iranian-backed intimidation, including rocket attacks, sabotage, and other forms of violence and subversion. To date, no ship has been sunk, Kuwaiti oil continues to get out of the Gulf, and the overall intimidation effort has not changed Kuwaiti policy or practices, but it did force the Government of Kuwait to seek protection for its interests, both from the GCC and outside powers.

Through the use of political carrots and sticks, Iran has also sought to divide the GCC and lessen GCC support for Kuwait. Given the heavy-handed manner in which Iranian envoys pursue even the goal of accommodation, their efforts to date have not been successful. Most recently, an Iranian envoy toured the GCC capitals to dissuade any support for Kuwait reflagging, U.S. protection, or provision of GCC support for these efforts. The results were not what Tehran would have wanted: the recent GCC Foreign Ministers' meeting in Jeddah publicly endorsed measures taken by Kuwait to protect its interests, reaffirmed that an attack on one was an attack on all members, and supported international efforts to secure freedom of navigation. Despite, or perhaps because of this diplomatic setback, we expect Tehran to use other methods of intimidation against Kuwait and the other GCC members.

The military threat to U.S. interests is discussed in Section IV.

Iran's Quest for Hegemony

Iranian acquisition and testing of Chinese-origin SILKWORM missiles have significantly heightened the risks to international shipping. The proposed launch sites for these surface-to-surface anti-ship missiles would directly threaten vessels transiting the Strait of Hormuz, allowing the Iranians to put a strangle hold on Gulf shipping. Iranian spokesmen have been blunt in their threats to do just this. While much of the Iranian rhetoric can be discounted as a political measure used for domestic consumption, the reality of the threat remains.

The Khomeini regime continues to view Iran as having predominate responsibility for security in both the Strait of Hormuz and the Gulf as a whole. While official Iranian spokesmen have given a token nod to other Gulf countries when discussing the maintenance of Persian Gulf security, the right of these states to ask for U.S. support, for example, is categorically denied by Iran. There is an historic Iranian penchant for hegemony over the Gulf which approaches megalomania. The other Gulf states are well aware of this Iranian view and take it into account in their dealing with the Khomeini regime.

Soviet Exploitation

The Soviet Union's long-term objectives in the region are to establish and broaden its hitherto generally weak relations and influence with the Gulf states and, more generally, to counter the U.S. position in the region. The Soviets also seek to maintain their position with both Iran and Iraq and to emerge as a major extra-regional power in the post-Gulf-war period.

The Soviets are achieving some success. The USSR established diplomatic relation with Oman and the UAE in 1985 and is developing contacts with Saudi Arabia. Other Gulf States may be considering establishing relations with the Soviets. Moscow has sought to take advantage of the cautious U.S. policy on arms sales to the Gulf states and of the Iran-Contra affair to pose as the friend and "protector" of the Gulf states. Following the attack on the USS STARK, the Soviets have spread tales of U.S. militarism and, inconsistently, of U. S. unreliability. The rapid Soviet response to a Kuwaiti request to protect its ships, and later to lease shipping, may have been intended as a stroke to establish the USSR as a "responsible" outside naval guarantor.

The Soviet position in the Gulf region, however, is beset by conflicting interests. The Soviets seek to maintain their position as the champion of Iraq and are concerned about the consequences of an Iranian victory in the Gulf war. Because of this, and because the Soviets may believe the war gives the United States a "pretext" to increase its naval forces in the region and seek access to support facilities, the USSR probably harbors genuine concerns about the war's continuation. However, the Soviets also seek to avoid alienating Iran and, if possible, hope to improve their relationship. In practice, therefore, the Soviets have sought to play both sides of the war, staking out ostensibly constructive positions calling for the war's end, while thus far deflecting strong action directed against Iran as the recalcitrant party towards a settlement.

The Soviets are watching the development of U.S. policy very closely. They might try more seriously to help end the war if they decide that the risks of continued warfare and instability in the region outweigh the unilateral gains they have sought. In this respect, we have engaged the Soviets in our UN Security Council initiative to obtain a mandatory ceasefire and sanctions against those who fail to comply. If, however, the Soviets judge that international efforts to end the war will fail and that the United States will abandon its political and strategic commitments in the region, they will continue their policy of seeking gains in the Gulf at U.S. expense. We know the USSR has sought such facilities over the last six months, coincidental with their offer to protect Kuwaiti shipping.

In sum, the Soviets have long-term ambitions in the Gulf and can be counted on to pursue them. The way the Soviets define their options and the extent to which they see it in their interests to act responsibly will depend in large part on western and U.S. steadfastness, our willingness to protect our own and Free World interests, and the security and independence of our many friends in the Gulf.

III. DEVELOPMENT OF U.S. POLICY OVER THE PAST SIX MONTHS

Chronology

Starting in mid-January, there were a series of top-level meetings at the White House with representatives of the Department of State, Department of Defense, CIA, and other agencies to review the situation in the Gulf and U.S. strategy for protecting our vital interests and those of our allies and friends in the Gulf from the twin threats of increasing Iranian aggression/intimidation and Soviet efforts to expand its politico-military influence at our expense. Against the backdrop of the Iranian offensive against Basra, terrorist and shipping attacks against Kuwait, and virulent anti-U.S. propaganda, the President ordered naval vessels of MIDEASTFOR nearer Kuwait (where the Islamic Summit was being held) as a signal of U.S. support. Kuwait's first official query about U.S. Navy protection was discussed along with other issues.

A Presidential statement was issued on January 23 reiterating support for GCC self-defense and the free flow of oil out of the Gulf. During the month of February, there were further policy review meetings to consider how best to deal with the growing threat in the Gulf, including Iran's public test-firing of the SILKWORM missile in the Strait of Hormuz, and revelation of the Soviet offer to put Kuwaiti tankers under its flag and protect them. On February 25, the President issued a statement reiterating the concern he had expressed on January 23 at the "suffering and instability which the Iran-Iraq war has brought to the Gulf region", regretting Iran's unresponsiveness to efforts at ending the war and its continued efforts to subvert its neighbors, reiterating U.S. diplomatic actions toward ending the war, noting that "this conflict threatens America's strategic interests", and reaffirming our commitment to the "free flow of oil through the Strait of Hormuz" and "to supporting the self-defense of our friends in the region".

During March and April, members of Congress and staff were briefed on the proposal to protect Kuwaiti tankers and Kuwait indicated interest in placing eleven tankers under U.S. flag and in not proceeding with its earlier proposal to place its tankers under Soviet flag. Meetings were held in the White House to review preparation for reflagging and escorting the tankers and diplomatic efforts to accelerate an end to the war. The President approved informing Kuwait that they could have eleven tankers placed under U.S. flag, provided they passed Coast Guard inspection and met other requirements, and that they would be given the same protection the U.S. Navy gives other U.S.-flag vessels in the Gulf. This offer was explained to Kuwait and other GCC states during a visit to the region by the Chairman of the Joint Chiefs of Staff, Admiral Crowe. In mid-May, an instruction was sent to the Commander of our Middle East Force and our Embassy in Kuwait for delivery to the Government there, advising that protection would not begin until formal approval by the Administration of all arrangements had occurred. Defense Department planning for protection continued, as did Coast Guard preparations for inspecting Kuwaiti tankers.

On May 17, the USS STARK was attacked and hit by Exocet missiles fired from an Iraqi F-1, the first time any ship under U.S. flag in the Gulf had been attacked. This tragic incident caused a further in-depth reexamination of military planning and diplomatic activity, as well as intensive Congressional consultations, including letters of May 20 from the Secretary of State to the Speaker of the House and the President of the Senate.

A detailed chronology of the development of U.S. policy to protect Kuwaiti shipping may be found at Table I.

Ending the Iran-Iraq War

U.S. consideration of a Gulf protection plan must be viewed within the context of the broader, more fundamental effort to bring about an early, negotiated end to the Iran-Iraq war. Threats to Gulf shipping, intimidation of Kuwait and potential destabilization of Arab Gulf governments cannot be addressed separately from their underlying cause - the war. U.S. policy over the past months has, therefore, been dual tracked -- on the one hand, pursuing and encouraging all diplomatic efforts to end the war and efforts to deny Iran the means to continue the conflict and, on the other hand, seeking to provide security to those nonbelligerent states threatened by the continuation and expansion of the war.

Since January, the United States has taken the lead in the U.S. Security Council to press for a pair of resolutions, the first of which calls for a ceasefire and withdrawal and the second of which includes enforcement measures. The five Permanent Members of the Security Council agree that the war has gone on too long and that more assertive international efforts are needed to force the parties to end the conflict. As a means to do so, the United States strongly supports mandatory sanctions against Iran. Prognosis for an agreed text and approach are good for the initial resolution, but the process is as yet incomplete and the negotiations with the five Permanent Members of the UNSC are at a delicate stage.

There has also been a convergence of views and approach between the United States and the Arab League. At their Foreign Ministers' meeting at Tunis in early April, the Ministers agreed unanimously that the war must be brought to an early, negotiated end, that Iran was the intransigent party and that the flow of arms to Iran had to be halted. It is noteworthy that both Syria and Libya -- traditional supporters of Iran in the war -- voted with the rest of the Arab League. Following the Tunis meeting, representative delegations were dispatched to the capitals of the UNSC Permanent Members. Their reception in Moscow and Beijing was disappointing. The Soviets expressed platitudes of support -- but took no concrete action. The delegation that subsequently visited Washington, however, was pleased to note that the United States and the Arabs were eye-to-eye on this key issue. We have encouraged the Arab League in its own diplomatic efforts to end the war and welcomed their support for UNSC efforts toward the same end.

The GCC states, most recently at their Foreign Ministers' meeting in Jeddah June 7, have also pledged themselves to pursue all diplomatic efforts to end the war. Regrettably, Iran remains impervious to all of these efforts. The GCC also endorsed U.S. arrangements to protect shipping in the Gulf as early as last February.

The goal of Operation STAUNCH is to persuade Iran of the futility of pursuing the war by limiting its ability to secure weapons, ammunition, and other supplies. This effort is aimed specifically at Iran because that country, unlike Iraq, has rejected all calls for negotiations. STAUNCH entails diplomatic efforts to block and complicate Iranian arms resupply efforts. Despite the exception to policy undertaken last fall, the Administration remains committed to Operation STAUNCH and has used all assets at its disposal to enforce it. The process is complex, but we are continuing to achieve success. We are also supporting an effort within the UNSC to broaden STAUNCH to a more international effort.

Before the Venice summit, we approached other participants to urge greater individual and collective efforts to seek peace and ensure protection of our common interests in the Gulf region. Contrary to press reports, the Gulf situation was a topic of discussion at Venice. The Heads of Government issued a positive, substantive statement urging effective and just UNSC action, publicly reaffirming their vital stake in the Gulf region, and declaring that oil flow and other traffic must continue unimpeded through the Strait of Hormuz.

Kuwait Reflagging and Protection of Shipping

General Background on Reflagging

U.S. law (Vessel Documentation Act of 1980, 46 U.S.C. 121) and policy regarding the reflagging of foreign-flag vessels in the United States require that the ships must meet, in addition to U.S. ownership and manning requirements, both international standards and the even more-stringent U.S. Coast Guard standards, before they are permitted to fly the U.S. flag and assume all the rights and responsibilities associated therewith. In recent years, upwards of 50 foreign-flag commercial vessels have obtained U.S.-flag status. Some of these subsequently have been chartered by the U.S. Government for transport of military supplies by the Military Sealift Command. A standing mission of the U.S. Navy is to protect U.S.-flag vessels worldwide when required by threats to such shipping and consistent with the availability of U.S. forces; reflagged vessels would qualify for the same protection.

There are very specific Coast Guard regulations for reflagging which are based on U.S. statute. The reflagged vessels must meet U.S. inspection and safety requirements, be U.S.-owned, and have a U.S. master. The owner can be an individual U.S. citizen or a U.S. company in which the chief executive officer, the chairman of the board, and a majority of the directors are American citizens. In addition, according to Coast Guard regulations, 75% of the crew on vessels serving American ports must be American citizens. Vessels which do not enter U.S. ports, however, can hire crew members other than the master who are foreign nationals.

Related to reflagging is inspection, by which the Coast Guard ensures that the ships comply with U.S. requirements for safety and structural integrity. The Coast Guard has encountered no major problems with the inspections of the former Kuwaiti tankers. These inspections are scheduled to be completed by mid-June. On the basis of U.S. national security interests in the Gulf, the Department of Defense authorized a one-year waiver from certain U.S. specifications which are over and above existing internationally-accepted standards. These affect such items as pyrotechnical and life-saving equipment. A two-year waiver was granted for those inspections requiring drydocking.

Like all U.S.-flag vessels, these ships are subject to U.S. control. Their owner is subject to American tax and corporation laws. The vessels also come under the Mobilization Act which allows the Department of Transportation to requisition the vessels' use or title in the event of a crisis. Should a vessel's owner wish to register the ship under some other flag in the future, the permission of the U.S. Government is required.

Under international and U.S. domestic law, these prerequisites to and incidents of U.S. registration establish effective jurisdiction by the United States over commercial vessels of its flag. In practice, they provide the "genuine link" with the United States that under international law impresses authentic U.S. nationality on the Kuwaiti tankers and other merchant vessels of our fleet.

The Kuwait Case

As a result of the Iranian policy to target shipping serving Kuwaiti ports, the Government of Kuwait began efforts to protect its interests by raising at the November 1986 GCC Summit the issue of securing outside assistance. While the member states did not feel they had the resources to assist directly, they did not oppose Kuwait's efforts to take other necessary measures.

Our first clear indication of Kuwait's approach came with the Kuwait Oil Tanker Company (KOTC)'s request to the U.S. Coast Guard last December for information on reflagging requirements. Because of the number of reflaggings worldwide in recent years, the request was handled as routine and information was provided on the complex, time-consuming process. In January, the Government of Kuwait formally queried our Embassy about the use of U.S. flags and whether reflagged Kuwait vessels would receive U.S. Navy protection equal to that provided other U.S.-flag vessels. At this time, we also were informed of Soviet agreement to provide protection to Kuwaiti tankers under the Soviet flag or to charter Soviet tankers. In line with U.S. regulations and longstanding U.S. policy commitments to maintain the free flow of oil through the Strait of Hormuz, Kuwait was assured that, if its vessels met standard U.S. requirements, it could apply for reflagging and we would consider what protection could be afforded.

Kuwait indicated that it was considering reflagging six vessels under the U.S. flag and five under the Soviet flag. On March 7, the U.S. Government advised the Government of Kuwait of our willingness to protect all 11 of the Kuwaiti-owned vessels in question. We informed other GCC states of our offer, which they approved, and expressed our concerns about increased Soviet presence in the Gulf.

Kuwait announced it would accept our offer and decided to reflag the 11 vessels in the United States. We were told that, while this arrangement would obviate any need to reflag five vessels with the USSR, Kuwait was going to augment its fleet with three long-haul Soviet-flag vessels through one-year commercial charter arrangements. As soon as Kuwait indicated its acceptance of our offer, we began consultations with Congress which are still ongoing.

One advantage for the United States from the Kuwaiti decision to register its tankers under the U.S. flag is the greater control which we now have over these ships. Under this protection plan, we will be able to control the movement of these tankers in the Gulf, and we can guarantee that they will carry no contraband.

In the meantime, representatives of MIDEASTFOR and the KOTC have discussed modalities of a protection plan, and KOTC and the Coast Guard have worked on the technical aspects of reflagging.

IV. MILITARY ARRANGEMENTS

MISSION

As mentioned previously, the United States has maintained a naval force in the Persian Gulf since 1949. MIDEASTFOR's primary mission has been and will continue to be to provide military presence in order to protect U.S. interests and provide a rapid response capability in contingencies. Other missions include assisting friendly regional states, protecting U.S.-flagged vessels, maintaining safe passage of U.S.-flagged shipping through the Strait of Hormuz, and preserving U.S. and allied access to vital oil resources in the region. MIDEASTFOR is tasked with providing protection to U.S.-flagged vessels including the reflagged Kuwaiti vessels sailing within or transiting through the international waters of the Gulf of Oman, Strait of Hormuz, and the Persian Gulf. The continued presence of U.S. forces in the Persian Gulf signals U.S. resolve in the area and acts as a moderating element with regard to the Iran-Iraq war. Further, U.S. forces have acted as a deterrent to ship attacks. U.S. forces have escorted U.S.-flag vessels (4 - 10 ships per month) for the past four years with no attacks on these vessels by either belligerent. Additionally, no other vessel has been attacked while in close proximity of a U.S. combatant.

BELLIGERENT ORDER OF BATTLE

Iran

The Iranian air force fighter aircraft inventory consists of F-4s, F-5s, and F-14s. In addition, the air force maintains armed helicopters. However, combat losses, spare parts shortages, and a desire to avoid superpower confrontation diminish the likelihood of a deliberate Iranian attack on U.S. forces.

The Iranian navy has encountered problems similar to the air force (inadequate maintenance and spare parts shortages). Low operational readiness status has relegated the Navy, for the most part, to patrol duties and search and seizure of unescorted merchant ships.

During the summer of 1986, Iran received its first of several SILKWORM anti-ship missile batteries from China. The Iranians successfully test-fired the missiles from a site on Qeshm Island in late February of this year. SILKWORM is a highly mobile system which can be set up in less than 12 hours. The 50 NM range of the SILKWORM enables Iran to cover the entire Strait of Hormuz, including the heavily traveled shipping lanes. The missile's large warhead is capable of sinking or, at a minimum, causing serious damage to a ship. Once operationally deployed, the SILKWORM coastal defense missile will increase the potential threat to ships in the Gulf.

Iraq

Iraq maintains a viable fighter and fighter-bomber inventory consisting of French- and Soviet-manufactured aircraft. However, it is unlikely that Iraq would intentionally target U.S. forces. As a result of the USS STARK being fired on accidentally by an Iraqi aircraft, identification procedures for U.S. and Iraqi forces are being developed by the United States and the Government of Iraq. These procedures, when approved by both countries, will reduce the probability of a recurrence of the USS STARK incident.

OVERALL THREAT TO U.S. FORCES AND U.S.-FLAGGED SHIPPING

It is believed that Tehran remains reluctant to deliberately and overtly target U.S. forces. The Iranian threat to U.S. forces is primarily based on potential identification errors or a unilateral decision of a local commander. We believe the SILKWORM will be used to intimidate Gulf states friendly toward Iraq, such as Saudi Arabia and Kuwait. Iran has generally not attacked merchant ships associated with superpowers and avoids confrontation with warships of any nation. On the other hand, there is a threat from terrorism and other unconventional, non-attributable forms of attack. Iran has long been active in subversion and terrorism in the countries of the Persian Gulf. However, its ability to gain access to U.S. forces and facilities is limited.

THREAT TO KUWAIT AND OTHER GCC COUNTRIES

The Iranian Air Force poses a potential threat to Kuwait and other friendly Persian Gulf nations, with its capability to launch potentially damaging raids against oil facilities, desalinization plants, and shipping throughout the Gulf.

Iran's navy continues to stop and search and, when contraband is found, seize unescorted merchant ships. At any time, it could resume anti-shipping operations against Kuwaiti commercial ships transiting the Persian Gulf. Although recent Iranian emphasis has been placed on ships engaged in trade with Kuwait, attacks on other shipping are also possible.

The Iranian threat to Kuwaiti oil facilities, primarily from sabotage, and shipping in the Gulf is moderate-to-high, since the Iranian leadership views Kuwait as an active Iraqi ally. Attacks on shipping have apparently ceased for the moment but could resume at any time. The Iranians could well resort to more non-attributable forms of attack against Kuwait through terrorism, mining of accesses to Kuwaiti ports, etc. Similar threats could be posed to other Gulf states.

OVERALL ASSESSMENT

For all of the reasons cited, it is considered unlikely that Iran would seek a direct confrontation with the United States by directly and overtly attacking a U.S.-flag merchant ship. This is particularly true if the merchant ship is escorted by U.S. warships.

A deliberate strike on U.S. forces by Iraq is highly unlikely, and accidental attacks such as that suffered by the USS STARK are far less likely to occur due to procedures being developed for interaction between U.S. and Iraqi forces.

RULES OF ENGAGEMENT (ROE)

U.S. Peacetime Rules of Engagement are based on the inherent right of self-defense. These rules ensure a full range of options consistent with that right and U.S. policy. The Persian Gulf Supplemental ROE have been tailored specifically for the area and provide specific guidance for threats from aircraft, surface/subsurface vessels, and land-based weapons systems such the the SILKWORM missile.

The following definitions are pertinent to understanding the ROE:

- Hostile intent: The threat of imminent use of force against friendly forces, for instance, any aircraft or surface ship that maneuvers into a position where it could fire a missile, drop a bomb, or use gunfire on a ship is demonstrating evidence of hostile intent. Also, a radar lock-on to a ship from any weapons system fire control radar that can guide missiles or gunfire is demonstrating hostile intent. This includes lock-on by land-based missile systems that use radar.

- Hostile act: A hostile act occurs whenever an aircraft, ship, or land-based weapon system actually launches a missile, shoots a gun, or drops a bomb toward a ship.

U.S. forces in the Persian Gulf will respond as follows:

- Self-defense: U.S. ships or aircraft are authorized to defend themselves against an air or surface threat whenever hostile intent or a hostile act occurs.

- U.S.-flagged commercial vessels: U.S. ships or aircraft may defend U.S.-flagged commercial vessels against air or surface threats whenever hostile intent or a hostile act occurs.

The ROE provide authority to the on-scene commander to declare a threat hostile and engage that threat (i.e., a force demonstrating hostile intent or committing a hostile act) with all forces available to him in self-defense of his unit and

U.S.-flagged vessels. Only that force which is required to neutralize the threat or prevent a hostile act is authorized. Further, any use of force beyond that used against the immediate threat or in response to a specific hostile act must be approved by the National Command Authority.

As a result of the USS STARK being fired on accidently by an Iraqi aircraft, identification procedures for U.S. and Iraqi forces are being developed by the United States and the Government of Iraq. These procedures when approved by both countries will reduce the probability of a recurrence of the USS STARK incident. Iran assiduously adheres to U.S.-established procedures for warning and identification (IFF) when operating in the vicinity of U.S. forces. We fully intend to remind Iran of those procedures prior to implementation of the protection plan.

READINESS CONDITION OF U.S. COMBATANTS IN THE PERSIAN GULF

Definitions of readiness conditions of naval combatants are contained in Table II. U.S. combatants operating in the Persian Gulf remain at readiness condition III. However, when transiting the Strait of Hormuz or when confronted by an air or surface contact which closes in a threatening manner, units are required to go to General Quarters. Even so, there is no guarantee of 100 percent protection to our combatants or U.S.-flagged vessels regardless of their readiness condition. Additionally, all U.S. forces in the Gulf region are at a heightened state of awareness as a result of the President's guidance.

PROTECTION OF SHIPPING PLAN

MIDEASTFOR consists of the flagship, USS LASALLE, and four combatants. An additional combatant is also stationed in the Gulf of Oman to assist in the surveillance, patrol, and escort effort. Additional combatants will augment MIDEASTFOR in the future. The ships of MIDEASTFOR will all be equipped with surface-to-air missiles and the Close-In Weapons System. Carrier battle group (CVBG) Indian Ocean presence is normally planned for seven months a year; however, a CVBG is currently scheduled to be in the Indian Ocean continuously for the immediate future. A detailed review of the advisability of battleship battle group operations in the area is being conducted. Airborne Warning and Control system (AWACS) aircraft further enhance MIDEASTFOR capabilities.

Protection provided to the newly U.S.-flagged tankers will be identical to that which would be provided to any U.S.-flagged commercial vessel in similar circumstances. Escorted merchants will be in communication with the U.S. Navy combatants and will have a moderate separation. The combatants will be conducting surveillance by electronic and other means. Other U.S. Navy ships will be on normal patrol in the Gulf and available to assist if required.

COOPERATIVE ARRANGEMENTS

The U.S. mission in the Gulf is to protect U.S.-flag ships transiting that international waterway, including the eleven reflagged Kuwaiti tankers. Since the responsibility to protect U.S. assets is ours, allied and Gulf state cooperation for this mission will be limited. We have neither been asked to protect the flag vessels of other nations nor do we intend to do so unilaterally. In point of fact, however, several regional states, the UK, and France currently maintain a military presence, conduct military operations, or provide support for the military operations of other navies in or near the Gulf that have been a significant contribution in effectively deterring more extensive attacks on non-belligerent shipping and friendly territory. These arrangements and cooperation have been kept highly confidential for domestic political reasons in the Arab countries concerned. Without this confidentiality, such cooperation would be difficult to sustain. We do believe it is important at this time for the allies and regional states to lend strong public endorsement for U.S. operations in the Gulf and, where possible, to make their own military operations and cooperation with us more visible. A summary of that cooperation and what more we are seeking follows.

Allies

United Kingdom. The UK has several combatants in the Indian Ocean that occasionally enter the Gulf. On those occasions they generally conduct simple passing exercises with our MIDEASTFOR units. This includes a general exchange of information on ship traffic, weather, etc.

France. The French operate combatants out of Djibouti and maintain a presence in the Indian Ocean. They rarely enter the Gulf or Strait of Hormuz. It is unlikely that the French will wish to increase their forces in the area or participate in a multinational protection plan for non-belligerent shipping in the Gulf.

Other Allies. The Federal Republic of Germany and Japan are constitutionally restricted from participating in a Gulf shipping protection plan. A symbolic presence on the part of our European allies and possible financial support from Japan, however, are possible. The President has requested public support for our efforts in the Gulf from the allies.

Persian Gulf

Gulf Cooperation Council. The GCC was established in 1981 by six states along the Arabian Peninsula: Saudi Arabia, Kuwait, Bahrain, Qatar, the United Arab Emirates, and Oman. The organization seeks cooperation in five major areas covering economic development, foreign policy, social welfare, collective defense, and internal security. The common defense program is embryonic, with some combined exercises, consideration of common weapons system procurements, and formation of a rapid deployment force.

The Gulf States.

Saudi Arabia. U.S. Air Force AWACS aircraft have been deployed to Saudi Arabia since 1980 to provide early warning and surveillance information for defense of the Kingdom's Eastern Province and protection of MIDEASTFOR units in the Gulf. Royal Saudi Air Force fighters provide necessary protection for the U.S. AWACS, which remain in Saudi airspace. During the USS STARK incident, the Saudis scrambled F-15s to protect the AWACS and their own territory and facilities, assisted in the search and rescue operation, and readied their military hospital at Dhahran for casualties.

Kuwait. Kuwait's refinery is the sole source for jet aviation fuel in the region and provides fuel on a commercial basis for MIDEASTFOR units and the CVBG in the North Arabian Sea. Kuwait has offered to provide free fuel to MIDEASTFOR ships escorting the newly reflagged tankers as well as maintenance support.

Bahrain. The ships of MIDEASTFOR have been supported from Bahrain for many years. Bahrain leases facilities for an administrative support unit on the Island and provides port facilities. During the USS STARK incident, Bahrain contributed greatly in the search and rescue effort, provided extensive medical assistance, and has been the host to numerous investigative teams. Additional port facilities have been provided to allow USS ACADIA, a destroyer tender, to conduct repairs to the USS STARK.

United Arab Emirates. The UAE permits port visits and commercial refueling of MIDEASTFOR units.

Oman. The United States has participated in combined exercises with the Omanis, using both naval and air forces. Oman also leases air facilities to us for P-3 surveillance operations in the North Arabian Sea and allows commercial refueling of MIDEASTFOR units. There are also agreements for storage of nonlethal U.S. defense material in the Sultanate.

LEGAL CONSIDERATIONS

War Powers Resolution

Sections 3 and 4 of the War Powers Resolution apply whenever the President introduces U.S. Armed Forces "into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances." These sections, if applicable, would require the President to consult with Congress "in every possible instance" before such an introduction, and to report in writing to Congress within 48 hours after the introduction.

As Secretary of State Shultz said in his letter of May 20, 1987, to the Congressional leadership, the Administration has considered this matter carefully and has concluded that there is no basis at the present time for concluding that the Resolution will apply to the escorting of the reflagged tankers by U.S. Naval vessels. There is at this time, no clear indication of imminent involvement of our forces in hostilities. Prior to the attack on the USS STARK, there had been no attack on U.S. vessels in the Gulf. The attack on the USS STARK was apparently the result of an error in targeting, and not the result of any decision by Iraqi forces to attack U.S. vessels. We have no reason to believe that such an attack will be repeated. The objective of our Naval presence will be to deter, not encourage, hostile action.

We are in no way attempting to avoid consulting with, and reporting to, the Congress with respect to this program. We will continue to keep the situation under active review from this standpoint, and will continue to consult with the Congress on any significant developments. At this time, however, there is no reason to conclude that the Resolution will be triggered by our planned course of action.

Compliance with International Law

The United States will be in full compliance with international law in providing escort to the reflagged tankers. International law clearly recognizes the right of a neutral state to escort and protect its flag vessels in transit to neutral ports. The tankers will carry Kuwaiti oil to neutral ports and will return in ballast; they will not carry contraband for either of the belligerents. If a belligerent seeks to exercise the right of visit and search for contraband, the U.S. escorts will certify its absence.

The escort plan itself, and the ROE applicable to U.S. naval and air operations in the Persian Gulf, are carefully designed in recognition of principles of international law limiting the threat or use of force. Our Gulf naval presence in the past has not proved, nor is it intended in future to be, provocative. It poses no threat to belligerents. In accordance with our inherent legal right to employ proportional military force as necessary in self-defense, the United States will act only in the face of attack, or hostile intent indicating imminent attack, against warships or commercial vessels of its flag.

Therefore, the United States will be in full compliance with international law concerning neutrality and the use of force. Neither the tankers nor their U.S. escorts will be legitimate objects of attack, and the United States will exercise the right to use reasonable force only to protect them from attack.

V. CONCLUSIONS

The United States has three major interests in the Persian Gulf which endow the region with special importance for our foreign policy and national security interests: preventing the spread of Soviet influence in the area or domination of the region by a hostile Iran; preserving the security and stability of the moderate Gulf Arab states; and maintaining continued access to Gulf oil resources, which are becoming increasingly more important.

Our major interests in the Persian Gulf are threatened today by the Iran - Iraq war, particularly the potential for spill-over to the moderate Gulf states, Iranian intimidation of these governments, and the Iranian preparations for deployment of SILKWORM anti-ship missiles capable of covering the vital Strait of Hormuz choke point. The further possibility of establishment of Iranian hegemony throughout the region would be disastrous to U.S. and Western interests as a whole. The Soviet Union desires to expand its influence in the Persian Gulf and is seeking ways to exploit tensions in the region to undermine the longstanding interdependency of the Gulf states and the West.

The United States Navy has protected commercial shipping flying the American flag since the earliest days of the Republic. That protection is available without discrimination to all vessels that meet the stringent requirements of U.S. law for ownership, manning, and safety. The Government of Kuwait requested and the U.S. Government agreed to the reflagging of 11 ships then owned by the Kuwait Oil Tanker Company. Upon completion of U.S. Coast Guard inspections and other formalities, these ships will be permitted to raise the American flag and be entitled to the protection of the U.S. Navy in the troubled waters of the Persian Gulf.

The U.S. Navy presence in the Persian Gulf will be augmented with additional combatant ships in order to successfully conduct its mission of protecting all U.S. commercial flag vessels plying the Gulf. An operational plan has been developed employing a "sphere of influence" for small groups of vessels under active escort by naval ships. The plan is not risk-free: threats to American warships and the protected U.S. vessels do exist, principally from unconventional methods of attack, but these risks are low-to-moderate. Our warships are adequately armed and are guided by appropriate rules of engagement to meet the threat, including that from SILKWORM missiles. In addition, the presence of armed USN warships will continue to be a powerful deterrent to Iranian attack.

The United States is actively seeking an end to the Iran - Iraq war through every diplomatic means available and continues to work for a negotiated settlement that leaves no victor or vanquished, with the sovereignty and territorial integrity of each intact. While the United States welcomes the participation and assistance of its allies and the Gulf states in the protection of shipping in the Gulf, we are prepared to accept our responsibility as a superpower to take the initiative in ensuring the free flow of oil. The bottom-line: if we, as the leader of the Free World, do not take on the role of protecting declared vital U.S. and western interests, there are others who will try to insert themselves -- gladly. Their objectives will not be ours. That is the real risk we cannot afford to take.

VI. OUTLOOK AND NEXT STEPS

Implementing the Protection Plan

The U.S. Navy ships that will augment MIDEASTFOR to participate in the protection mission are scheduled to arrive in the Gulf at the beginning of July. Prior to this, the Commander of MIDEASTFOR is expected to complete the remaining details of the escort procedures, including scheduling the tankers, refueling, etc. with the KOTC and the Kuwaiti government. We also will work with our allies and the Gulf states to put into place those arrangements in which they will participate. The U.S. masters assigned to the tankers also are expected to arrive in the region within the next few weeks to take command of the newly-flagged vessels. Once these final details are completed, and the President has been advised and agrees, the protection plan is expected to begin.

Diplomatic Strategy for Ending/Containing the War

As noted above, the United States has been and continues to take the lead within the UN and with our allies to press for an early, negotiated end to the war. We have and will work closely with the members of the UN Security Council, the Arab League, the GCC, and others who seek the same goal. The United States seeks to minimize Soviet political and military inroads in the region and does not want to legitimize Soviet naval presence in the Gulf as a participant in an international shipping protection plan, but we are not adverse to working with the USSR in multilateral efforts to end the war. Ending the threat of conflict will benefit both countries, as well as the entire region. The United States notes the declaratory Soviet support for freedom of navigation in the Gulf but believes that, rather than engaging the Soviets in formal arrangements in the Gulf, efforts should focus on ending the war so that the question of shipping protection need not arise. We have worked well with the Soviets so far at the UN. The U.S. also seeks serious Soviet efforts to staunch the flow of arms to Iran. Those efforts have not been sidelined by our more immediate concerns for protection of shipping. Quite to the contrary, we have redoubled our efforts on the diplomatic front, recognizing that the only assured means to guarantee the free flow of oil and the stability and security of our friends and preclude further Soviet access and Iranian hegemony is to end the tragic and senseless war.

Continued Consultations with the Congress

The Administration has kept Congress aware of our policy and efforts to assist the Gulf reach goals that we all share. This report, by its very inclusiveness, seeks to inform and share with the Congress the fundamental elements of our policy, the nature of our presence, and the evolution of these elements that have led us to take the more immediate steps now being debated among us -- the active protection of shipping. The Administration will keep the Congress informed as events evolve and looks forward to working closely in the furtherance of our national interests as they relate to the vitally important Persian Gulf region.

TABLE I

Chronology of Kuwaiti Shipping Protection Issue

1986	
November 1	Kuwait raises concern about shipping at GCC Summit
December 10	Kuwait Oil Tanker Company (KOTC) requests U.S. Coast Guard (USCG) to provide U.S. flagging requirements.
December 23	KOTC informs U.S. Embassy of interest in reflagging.
December 25	USCG informs KOTC of reflagging requirements.
1987	
January 12	USCG sends KOTC reflagging information.
January 13	Kuwait asks Embassy if reflagged Kuwait-owned vessels would receive U.S. Navy protection; we learn Kuwait has similar offer from Soviets.
mid-January	Interagency policy meetings at White House on Iran/Iraq war and Gulf.
January 23	Presidential statement reiterates commitment to free flow of oil through Strait, support for GCC self-defense.
January 29	USG reply to January 13 inquiry reiterates policy commitment to Gulf; Kuwait can reflag/charter if it meets U.S. requirements.
February 6	We affirm to Kuwait that U.S. Navy mission is to protect all U.S. flag ships to degree possible with available assets.
mid-February	Interagency policy-level meetings at White House on Middle East and Gulf issues, specifically including issues of free flow of oil, SILKWORM threat and protection of Kuwaiti tankers.
February 25	Presidential statement reiterates USG commitment to free flow of oil, GCC states' security.
late-February	Successful Iranian test-firing of SILKWORM missile at Qeshm Island.

late-February	We learn of USSR agreement to reflag/protect five Kuwaiti tankers.
March 2	KOTC asks to put six vessels under U.S. flag.
First Week in March	President approves interagency recommendation on protection of Kuwaiti tankers.
March 7	Kuwait informed of U.S. offer to protect all eleven vessels in question.
March 10	Kuwait indicates it will accept USG offer.
March 12	State Department Legislative Affairs notifies Staff Directors of HFAC/SFRC Subcommittees on Europe/Middle East of USG offer to Kuwait, offers detailed briefing.
March 17	CJCS, Admiral Crowe, reaffirms USG offer to Kuwait.
March 19	Classified talking points on U.S./Kuwait offer delivered to HFAC/SFRC staffers.
March 22	KOTC/MidEast Force begin talks on protection modalities.
March 23	Classified talking points delivered to HASC/SASC staffers.
March 30	Assistant Secretary Murphy gives closed joint briefing to HFAC subcommittees on Europe/Middle East and Arms Control/International Security/Science.
March 31	Murphy briefs SFRC members in closed session.
April 2	Kuwait gives positive formal response to 3/7 offer; decides to reflag 11, limit Soviet role to charter.
early April	We learn Kuwait will charter three long-haul Soviet tankers.
April 21	Murphy open testimony to HFAC Subcommittee on Europe/Middle East refers to reflagging arrangement.

April 22	KOTC/U.S. Coast Guard talks on technical details of reflagging; first step -- USG inspection.
early May	Soviet charters begin.
May 12	USCG inspection begins in Kuwait.
May 13	Kuwait/MidEast Force meeting on proposed system of protection.
May 14	DOD authorizes National Defense Waiver allowing vessels one year to comply with certain U.S.-specific safety requirements and two years to comply with drydocking requirements.
May 17	Attack on USS STARK.

TABLE II

READINESS CONDITIONS OF U.S. NAVAL COMBATANTS

U.S. Naval vessels have fivereadiness conditions. These conditions represent varying states of readiness and are depicted as follows:

CONDITION I. Condition I, or General Quarters, requires the manning of all weapons systems, sensors, damage control, and engineering stations. Engineering systems are configured for maximum flexibility and survivability. With all hands at General Quarters, the ship is prepared to fight at its maximum capability.

CONDITION II. Temporary relaxation of Condition I for rest and meals at battle stations.

CONDITION III. Condition III watches require about one-third of the crew to man the weapons systems for prolonged periods. Condition III must provide the capability to conduct or repel an urgent attack while the ship is call to General Quarters.

CONDITION IV. Condition IV watches require an adequate number of qualified personnel for the safe and efficient operation of the ship and permit the best economy of personnel assignment to watches. No weapon batteries are manned.

CONDITION V. In port during peacetime, no weapons manned.

Beaumont Enterprise
Saturday, September 19, 1987

Other Views

U.S. should quit kidding itself about reflagging

By Allan Gerson
For Hearst News Service

WASHINGTON — Blinders are great for horses. They set the beasts on their course, eyes straight ahead. Steering is left to their masters. Blinders are considerably more problematic, however, when it come [illegible]o foreign policy.

Our reflagging operation in the Persian Gulf is built around blinders. Even the administration's usual critics talk of the need now to avoid appearing irresolute as if it is too late to reconsider our position and review the options available to us.

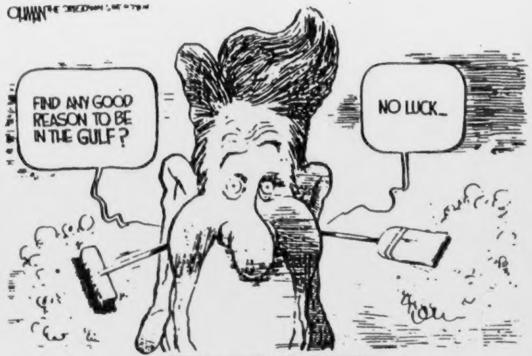
To be sure, our persistence in the Gulf has paid off — so far. But lady luck may take the lion's share of credit for that. What we continue to fail to come to grips with is that reflagging constitutes a dramatic departure from the traditional U.S. principle of helping others to help themselves. Nor is reflagging necessary to provide the legal fig leaf for a U.S. military response. The United Nations charter already clearly provides for the right of collective as well as individual self-defense in case of an armed attack against vessels of another country.

Lending our flag and honor to Kuwaiti boats makes them extraterritorial outposts of the United States. conflagration. If a boat carrying the U.S. flag is hit, especially if Americans are injured or killed, this nation has no option but to respond, and respond hard. By contrast, if a Kuwaiti vessel escorted by U.S. naval boats is attacked, the United States may choose to respond or not respond, depending on the relevant circumstances at the time — including Kuwait's readiness to fulfill its "secret" assurances of landing rights and other forms of assistance.

The United States is not the party most directly affected by the threats of Iranian attacks against Gulf shipping. The Europeans depend most on Persian Gulf oil, and despite some recent flurry of activity they continue to play a sideline role. The Gulf states, whose vital interests are directly affected, refuse to assure us publicly that in case we respond on their behalf to an attack on their boats, we can then make use of their facilities to, for example, refuel our planes.

As Kuwait's prime minister recently put it: "These are now American vessels . . . they are flying the American flag, so I am sure that the Americans will defend the American flags."

The United States is kept tied down in the Gulf indefinitely. Perhaps this is the Gulf states' way of "correcting" Secretary of State George Schultz for his perceived deception this past Octo-


FIND ANY GOOD REASON TO BE IN THE GULF?
NO LUCK_

PERSIAN GULF MIND SWEEPING

was trying to stop international arms traffic to Iran while the United States was secretly conducting its own arms sales.

But the United States needs neither to remain boxed in nor be prepared to jump ship at the very first opportunity. There is a middle course to be charted: committing ourselves to once again help others defend themselves.

Kuwaiti flag back where they rightly belong? Fear that the Russians will get into the act? But it is unlikely that the oil-rich Gulf states would willingly submit themselves to Soviet control. Fear that our actions will be construed as erosion of our support for the principle of freedom of navigation in international waterways? Hardly. We don't have to put our flag out front to make that statement.

the point. The point is to give the Ayatollah a bloody nose by egging him on to attack, and then responding in full measure. If this is what the administration seeks (and it is far from clear), it is wise to keep in mind that the adage that "if you're going to shoot the king, kill him" applies equally well to ayatollahs.

In short, reflagging is simply not a viable long-term solution and the sooner the United States takes off its blinders on this issue the better off we all can be. The expected adoption this September of a major U.N. Security Council cease-fire resolution on the Gulf would provide us opportunity for re-evaluation.

Should that occur, some will undoubtedly argue that the reflagging has now served its purpose, and that the United States can withdraw its fleet from the Gulf.

Taking off blinders doesn't mean, however, that we need go from pitch black to blinding white; it means that in the full light of day we recognize the need to return to the venerable principle of helping others to defend themselves, and thus to letting our flag fly over what is truly ours and what truly represents our vital national interests. Confusion over whose flag we may be fighting for helps no one.

Allan Gerson is a resident scholar at the American Enterprise Institute, a Washington, D.C., think-tank. Gerson is a former deputy assistant attorney general and a former counsel to the U.S. Mission

CYRUS R. VANCE

CHAIRMAN, NATIONAL COUNCIL

UNITED NATIONS ASSOCIATION OF THE USA

Thank you, Mr. Chairman. Elliot and I very much appreciate your interest in our proposal for a UN mission to flag, inspect and escort commercial vessels in the Persian Gulf. The essential components of our concept are reflected in Senate Concurrent Resolution 66, submitted by Senator Moynihan and cosponsored by you and by Senators Hatfield, Kassebaum and Kerry. Our proposal was put forward in the spirit of bipartisanship with which we hope the Senate will address your resolution. It is critical that Congress and the Executive Branch find ways of working together to develop workable policy options that are capable of engaging the sustained support of the American people. We believe that our proposal could constitute one of the building blocks of a coherent strategy toward the Gulf.

The stakes in the Gulf today are extremely high for America and for the world. The US needs to fulfill its commitments to friendly states in the region, while avoiding, if possible, an escalation of an already violent confrontation. Despite large doses of diplomatic and military pressure, the situation remains volatile. The risks to international shipping in the Gulf are no less today than when the US commenced its reflagging and escort operation three months ago. The land war grinds on, day after day, while Tehran appears increasingly willing to engage in brinkmanship with the growing US fleet. Fortunately, the diplomatic wheels are beginning to turn again, largely through the good offices of the UN Secretary General, and other western nations are beginning to do their share to help keep the sea-lanes open. But the situation remains fragile, unpredictable, and dangerous.

When we first suggested in early July that the UN take up the burden of protecting international commerce in the Persian Gulf, it was all too clear that the US simply could not get the job done working alone. The task requires a high degree of multilateral cooperation, engendered by a sense of common purpose.

The costs of going-it-alone have proven to be substantial and growing. The Defense Department estimates that the escort mission will cost the US $240 million a year, 25 times as much as our proposed UN force. Ironically, this is more than the entire US assessed contribution to the United Nations, a sum which somehow cannot be found in our trillion dollar budget. More importantly, the risk to human life, American and others, is increasing, not shrinking. And, unless a convincing rationale can be developed for why we are doing what we are doing, American credibility and stature will also be at risk.

The basic reason for introducing a UN presence in the Gulf, then, is simple enough: to share the burdens and risks while building a broad international consensus behind a series of steps to bring the war to an end on land, sea and air, as called for by Security Council Resolution 598. This proposal has sparked wide interest in the United States because people recognize that America needs policy options in the Gulf to avoid being locked into an open-ended commitment whose future course it does not control. And this alternative can work because it would be an integral part of a larger UN effort to build peace in the region.

Our proposal has the considerable advantage of simplicity:

1) The UN Security Council would authorize the provision of a UN flagging, inspection, observer and escort force for the Persian Gulf, whose mandate would be reviewed monthly by the Council;
2) This seafaring peacekeeping force, to be drawn from countries other than the US and USSR, would consist of about ten military observers and ninety crew and military support personnel, communication equipment, and seven lightly-armed patrol boats, and it would be financed through user charges levied on the flagged vessels or by contributions to a voluntary fund;
3) Commercial vessels about to enter the Gulf and seeking a UN flag would need to submit to inspection by UN personnel to assure that they are not carrying military contraband;
4) Those vessels passing inspections would receive a symbolic UN flag to fly alongside their national flag during their passage through international waters, when they would also carry a team of two UN observers and in some cases would be escorted by a lightly-armed UN patrol boat;

5) Before authorizing the mission, the five Permanent Members of the Security Council would consult intensively about possible diplomatic, political, economic and military sanctions which they would jointly undertake against any state or group which interferes with the safe passage of a UN-flagged vessel.

Following the remarkably successful tradition of UN peacekeeping forces on land, the seafaring force would rely on the power of diplomatic deterrence and the implicit threat of a joint response by the major powers to discourage attacks on the lightly-armed UN forces. Neither Iraq nor Iran would feel compelled to challenge the UN flag or eager to risk a confrontation with the whole UN community, especially with the UN serving as the chief broker in the peace process.

For the United States, the multilateral alternative to a go-it-alone strategy would have considerable advantages. First, it would make it far easier politically and constitutionally for important western countries like Japan, West Germany and Norway to support and participate more actively in a joint effort to keep the Gulf open and to end the war. Second, it would provide a far greater range of possible sanctions -- ranging from diplomatic censure, economic sanctions, oil or arms embargoes, to joint military action -- to choose from if the UN force is challenged. Third, a prior Security Council authorization for a UN presence in the Gulf would make it much easier for the US to rally international support to its side should its exchanges of fire with Iran continue to escalate.

The US, moreover, is currently placing a high priority on seeking an arms embargo against Iran for its refusal to comply with the ceasefire provision of Resolution 598. Should such an embargo be organized against Iran, Iraq or both, to be effective it would have to be backed up by a system for inspecting vessels entering the Gulf, as proposed in our plan. The observer teams envisioned in our proposal could serve as the sea-based observers called for in Resolution 598 to monitor compliance with the ceasefire on land, sea and air.

Before closing, I would like to stress that placing a modest UN mission in the Gulf would not require the US to abandon its commitments there. The right of each country to self-defense under Article 51 of the UN Charter would in no way be affected by this action. What the US would gain, however, would be much greater flexibility in choosing how to best pursue its interests and responsibilities in the region. There is every reason to believe that the US and the UN could co-exist peacefully, even symbiotically, in the Gulf.

Mr. Chairman, since you have known the UN since its inception forty-two years ago in San Francisco, you do not have to be reminded that there are times when the world organization can play an extremely valuable role in advancing the common security of the United States and the larger international community. This is one of those times.

ELLIOT L. RICHARDSON

CHAIRMAN

UNITED NATIONS ASSOCIATION OF THE USA

Thank you, Mr. Chairman. I am pleased to have the opportunity to discuss with you the possibilities for involving the UN more directly in the effort to bring the war in the Persian Gulf region to an end. Secretary Vance has ably outlined the major points of our proposal for a UN mission to flag, inspect and escort commercial vessels in the Gulf. We both appreciate and support Senate Concurrent Resolution 66, submitted by Senator Moynihan and cosponsored by yourself and Senators Hatfield, Kassebaum and Kerry. The passage of that resolution and its companion in the House of Representatives would be an important step toward making our proposal a reality.

Secretary Vance and I, along with our colleagues in the United Nations Association of the USA, have held scores of consultations on this matter here on Capitol Hill, with top Administration officials, with UN Secretary General Perez de Cuellar and with representatives of other key countries. We have been encouraged by the widespread interest and support the proposal has sparked in many quarters.

There are two principal concerns that have been raised which I would like to address this morning. The first relates to whether a UN mission in the Gulf would bring about a greater Soviet military presence in the region. The second concerns how the provision of UN seafaring peacekeepers in the Gulf could contribute to a resolution of the overall conflict between Iran and Iraq on land and in the air, as well as at sea. We have given considerable thought to these questions and are confident that the implementation of our proposal would have a salutary effect in both cases.

UN peacekeeping forces have traditionally excluded Soviet and American units precisely because their participation would raise questions about the possibility of the two global powers gaining firmer footholds in a region under the cover of a UN operation. As we have made clear in our writings and as Resolution 66 specifies, the escort vessels and crews envisioned under this proposal would come from countries other than the United States and Soviet Union. It would be contrary to American interests, as well as to those of the larger international community, to risk polarizing the conflict along East-West lines. Beyond that, relations between Washington and Moscow have not advanced to the point where Soviet and American naval forces could easily work together as part of a grand international armada engaged in joint punitive military action in the Gulf.

As Secretary Vance has emphasized, our proposal calls for the provision of nothing more than a handful of small patrol boats, some simple communications equipment, and a relatively small number of military personnel to carry out the inspection and observer functions. No major shore facilities, and certainly no permanent bases, would be required to support such a modest mission. This factor would make this option more palatable to the Gulf littoral states than current efforts to establish major naval support bases in the region, while allaying fears of a permanent Soviet naval presence.

It is not completely clear what Soviet Foreign Minister Eduard Shevardnadze had in mind in his September 23rd speech to the General Assembly when he suggested that "appropriate and sufficient forces should be made effectively available" to the UN to insure "the safety of navigation in the Gulf." We believe that it would be premature, and possibly counterproductive, to try now to assemble and operate a major international naval fleet in the Gulf with US and Soviet participation.

At the same time, we should not dismiss Shevardnadze's statement out of hand. It is a striking break with the past to hear a Soviet foreign minister call for the introduction of UN peacekeeping forces in a major conflict, particularly one so close to the southern border of the Soviet Union. To see that backed up within a few weeks with a Soviet commitment to pay its arrearages to the UN -- most of which stemmed from Soviet unwillingness to share in the costs of peacekeeping operations of which it did not approve -- makes this a remarkable and possibly historic development.

I fervently hope, by the way, that your colleagues in the Senate and House will recognize that this action leaves the United States as the chief deadbeat in terms of failing to pay its UN dues, including those for the UNIFIL forces in Southern Lebanon. It would be a crime if the United States does not have the financial tools with which to meet this more dynamic challenge presented by General Secretary Gorbachev's "new look" foreign policy. The Soviets' readiness to make up past obligations means they have come to endorse active United Nations peacekeeping. By contrast, American funding cuts not only signal a slackened US commitment to the UN peacekeeping role we had pioneered, but they jeopardize realization of the potential for making the Security Council machinery work now that both the US and USSR have a shared interest in halting the conflict.

Our proposal offers a way to explore the possibilities for cooperation and to test the depth of the new Soviet stance toward the UN, without going so far as to attempt a joint military mission. Both sides have an interest in seeing the war brought to a close without either Iran or Iraq gaining a military victory. The Soviets have as much to lose from the spread of Shiite fundamentalism as we do, given the large and growing Islamic population in Soviet Central Asia. An escalation of the military exchanges between the US Navy and Iran, however, would put the Soviet Union in a most awkward position, given its neutrality in the conflict and its desire to keep relations with the US on an even keel as the summit approaches.

The unanimity behind Security Council Resolution 598 suggests that the Soviet Union has apparently concluded, as have the other Permanent Members of the Security Council, that it is time to bring the war to an end. While the Soviet Union has less of an economic stake in the outcome than do many western countries, it has a major geostrategic concern with what happens on its southern flank. As I noted earlier, the Soviets have little to gain in military terms from a UN presence in the Gulf, but politically it could be quite attractive. In Moscow, they may well see it as a step which is consistent with Gorbachev's new emphasis on the UN as a means for bolstering stability in troubled regions at a time when he needs to focus on long-overdue changes in Soviet domestic policies and practices.

The Reagan Administration and the UN, of course, are already seeking -- and to some extent getting -- Soviet cooperation in the Gulf war. The mediation efforts of the UN Secretary General and the Security Council's display of unity have required Soviet support. Possible next steps, such as an arms embargo against belligerents refusing to observe a ceasefire, would be impossible without full Soviet cooperation. It is simply nonsense, therefore, to urge that the Iran-Iraq war should be brought to an end but that the Soviet Union should be completely excluded from the process.

Over the past few months, as the US has pursued its unilateral reflagging operation, the Soviets have quietly expanded their influence in the region. They have relied more on quiet diplomacy and economic incentives than on displays of military prowess. They have reached new trade agreements with Iran, even as they have maintained their relations with Iraq. By managing working relationships with both sides in the war, the Soviet Union has gained the kind of diplomatic flexibility which has benefitted the United States in the Arab-Israeli disputes. Moscow, in other words, does not need the UN to be a player in the Gulf. Only by working through the UN, however, have both the US and the Soviet Union been able to take cooperative steps to further their common interest in bringing concerted pressure on the belligerents to end the war without a victory for either side.

The second concern that has been expressed -- whether efforts to end the conflict in the Gulf can be tied to progress on stopping the war on land as well -- is more understandable. As we saw this summer, the unilateral US reflagging operation for a time slowed attacks at sea, but did nothing to end the land war. The US action may have actually served Iran's interests by allowing it to keep its oil revenues flowing while it continued its land offensive.

Our plan fully recognizes the importance of linking efforts to stop the war on land and at sea. It is designed to provide incentives to the two sides to comply with the comprehensive ceasefire called for by Security Council Resolution 598, rather than simply to keep the sea-lanes open, which would benefit Iran more than Iraq.

As a first step, our proposal calls for the flagging and escort of commercial vessels only of non-belligerents. This would be more advantageous to Iraq in some ways, since the oil exports of its Gulf allies would be protected while those Iranian oil shipments carried on its own bottoms would not be. The UN flagging umbrella could then be extended to vessels of belligerents complying with the comprehensive ceasefire provisions of Resolution 598. This would give both sides an additional incentive for seeking a peaceful settlement of their differences. We have also recommended that the situation be reviewed monthly by the Secretary General, who would report to the Security Council, which would decide whether or not to extend the mandate of the Gulf force for another month.

The US reflagging and escort operation has none of these attributes. Its coverage is spotty. Limited to Kuwaiti vessels, it tacitly permits attacks on vessels under other flags. Its continuation is not tied to progress in ending the overall conflict. There is no formal or regular review process and its mandate is open-ended. While the presence of the US fleet no doubt poses an implicit warning to Iran, its operation has not been tied to progress towards the fundamental objective of bringing the underlying conflict to an end. Therefore the US force, unlike the far more modest one we have proposed for the UN, is caught in the middle of the larger context of the long-running Iran-Iraq war.

The United States, with all the good will and naval power it can muster, simply is incapable on its own of bringing the Persian Gulf war to an end. It is an extraordinarily complex conflict, whose roots and ripples extend in many directions. It is up to the international community -- with the UN as the organizing force -- to develop a common package of incentives and disincentives capable of convincing the two sides that peace is now more attractive than war. The US can play an important role as a catalyst and central player in this process, but it cannot do it alone. In the end, as the Reagan Administration has begun to recognize, the UN is the only available instrument for bringing this horrible conflict to an end. Our proposal, building on the important work of the Secretary General and the Security Council to date, could be a key step towards peace in this troubled and vital region.